

MURRAY, Mr. REED, Mrs. CLINTON, Mr. OBAMA, Mr. SANDERS, Mr. BROWN, Mr. BYRD, Mr. INOUE, Mr. BIDEN, Mr. LEAHY, Mr. BAUCUS, Mr. LEVIN, Mr. KERRY, Mr. ROCKEFELLER, Mr. REID, Mr. CONRAD, Mr. KOHL, Mr. LIEBERMAN, Mr. AKAKA, Mrs. FEINSTEIN, Mr. DORGAN, Mrs. BOXER, Mr. FEINGOLD, Mr. WYDEN, Mr. DURBIN, Mr. JOHNSON, Ms. LANDRIEU, Mr. SCHUMER, Mr. BAYH, Mr. CARPER, Ms. STABENOW, Ms. CANTWELL, Mr. NELSON of Florida, Mr. LAUTENBERG, Mr. MENENDEZ, Mr. CARDIN, Mr. WEBB, Mr. CASEY, Mrs. MCCASKILL, Ms. KLOBUCHAR, Mr. WHITEHOUSE, and Mr. TESTER):

S. 1041. A bill to amend the National Labor Relations Act to establish an efficient system to enable employees to form, join, or assist labor organizations, to provide or mandatory injunctions for unfair labor practices during organizing efforts, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, for far too long, we've acquiesced in a lopsided economy that benefits wealthy individuals and corporations, but not America's working families. Tens of millions of our men and women are working harder than ever, but they aren't receiving their fair share of the economy they helped do so much to create and sustain.

Since President Bush took office, corporate profits have increased 65 percent. Productivity is up 18 percent. But household income has declined; the wages of working Americans are stagnant. Six million have lost their health insurance. Their retirement is uncertain as well—only 1 in 5 workers today has a guaranteed pension. In short, working families are finding that the American dream is beyond their reach. This injustice is worsening each year, and it is time for Congress to deal with it.

The best way to see that employees receive their fair share of America's prosperity is to give them a stronger voice in the workplace. Unions were fundamental in building America's middle class, and they have a vital role today in preserving the American dream for working families.

Unions can make all the difference between an economy that's fair, and an economy where working people are left behind. Union wages are 30 percent higher than non-union wages. 80 percent of union workers have health insurance, compared to only 49 percent of non-union workers. Union members are 4 times more likely to have a secure, guaranteed pension.

No wonder most American workers want union representation. The question is, why don't more of them have it?

The reason is clear. In 2005 alone, more than 30,000 workers were illegally fired or retaliated against for attempt-

ing to exercise their right to have a union in their workplace. Every 17 minutes, a worker is fired or punished in some illegal way for supporting a union. Unscrupulous employers routinely break the law to keep unions out—they intimidate employees, harass them, and discriminate against them. They shut down whole departments—or even entire plants—to avoid negotiating a union contract. It's illegal and unacceptable, but it happens every day.

Clearly, the current system is broken. It can't stop these illegal, anti-worker, anti-labor, anti-union tactics that take place every day. The penalties are so minor that employers treat them as just another cost of doing business. Even when workers succeed in forming a union, they often can't obtain a first contract because management stonewalls them and refuses to negotiate. Half of all cases alleging that employers refused to bargain are filed during first-contract negotiations—and in most of those cases, the National Labor Relations Board finds an unfair labor practice.

Year after year, Congress has refused to act against these union-busting tactics that are now all too familiar in the workplace. It's time to listen to the voice of America's working men and women, and give them what they want and deserve—a fair voice in the workplace and a fair chance at the American dream.

That's why I'm reintroducing the Employee Free Choice Act today. This essential legislation will strengthen protections for workers' freedom to choose union representation. It will restore their democratic right to join together for better wages, better benefits, and better working conditions. It will help millions of working men and women to build a better life for themselves and a better future for their children.

I am proud to have 46 of my fellow Senators joining me in sponsoring this important bill, and I hope that all of my colleagues will support it.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1041

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Employee Free Choice Act of 2007".

#### SEC. 2. STREAMLINING UNION CERTIFICATION.

(a) IN GENERAL.—Section 9(c) of the National Labor Relations Act (29 U.S.C. 159(c)) is amended by adding at the end the following:

"(6) Notwithstanding any other provision of this section, whenever a petition shall have been filed by an employee or group of employees or any individual or labor organization acting in their behalf alleging that a majority of employees in a unit appropriate for the purposes of collective bargaining

wish to be represented by an individual or labor organization for such purposes, the Board shall investigate the petition. If the Board finds that a majority of the employees in a unit appropriate for bargaining has signed valid authorizations designating the individual or labor organization specified in the petition as their bargaining representative and that no other individual or labor organization is currently certified or recognized as the exclusive representative of any of the employees in the unit, the Board shall not direct an election but shall certify the individual or labor organization as the representative described in subsection (a).

"(7) The Board shall develop guidelines and procedures for the designation by employees of a bargaining representative in the manner described in paragraph (6). Such guidelines and procedures shall include—

"(A) model collective bargaining authorization language that may be used for purposes of making the designations described in paragraph (6); and

"(B) procedures to be used by the Board to establish the validity of signed authorizations designating bargaining representatives."

(b) CONFORMING AMENDMENTS.—

(1) NATIONAL LABOR RELATIONS BOARD.—Section 3(b) of the National Labor Relations Act (29 U.S.C. 153(b)) is amended, in the second sentence—

(A) by striking "and to" and inserting "to"; and

(B) by striking "and certify the results thereof," and inserting "and to issue certifications as provided for in that section."

(2) UNFAIR LABOR PRACTICES.—Section 8(b) of the National Labor Relations Act (29 U.S.C. 158(b)) is amended—

(A) in paragraph (7)(B) by striking "or" and inserting "or a petition has been filed under section 9(c)(6), or"; and

(B) in paragraph (7)(C) by striking "when such a petition has been filed" and inserting "when such a petition other than a petition under section 9(c)(6) has been filed".

#### SEC. 3. FACILITATING INITIAL COLLECTIVE BARGAINING AGREEMENTS.

Section 8 of the National Labor Relations Act (29 U.S.C. 158) is amended by adding at the end the following:

"(h) Whenever collective bargaining is for the purpose of establishing an initial agreement following certification or recognition, the provisions of subsection (d) shall be modified as follows:

"(1) Not later than 10 days after receiving a written request for collective bargaining from an individual or labor organization that has been newly organized or certified as a representative as defined in section 9(a), or within such further period as the parties agree upon, the parties shall meet and commence to bargain collectively and shall make every reasonable effort to conclude and sign a collective bargaining agreement.

"(2) If after the expiration of the 90-day period beginning on the date on which bargaining is commenced, or such additional period as the parties may agree upon, the parties have failed to reach an agreement, either party may notify the Federal Mediation and Conciliation Service of the existence of a dispute and request mediation. Whenever such a request is received, it shall be the duty of the Service promptly to put itself in communication with the parties and to use its best efforts, by mediation and conciliation, to bring them to agreement.

"(3) If after the expiration of the 30-day period beginning on the date on which the request for mediation is made under paragraph (2), or such additional period as the parties may agree upon, the Service is not able to bring the parties to agreement by conciliation, the Service shall refer the dispute to an

arbitration board established in accordance with such regulations as may be prescribed by the Service. The arbitration panel shall render a decision settling the dispute and such decision shall be binding upon the parties for a period of 2 years, unless amended during such period by written consent of the parties.”

#### SEC. 4. STRENGTHENING ENFORCEMENT.

(a) INJUNCTIONS AGAINST UNFAIR LABOR PRACTICES DURING ORGANIZING DRIVES.—

(1) IN GENERAL.—Section 10(1) of the National Labor Relations Act (29 U.S.C. 160(1)) is amended—

(A) in the second sentence, by striking “If, after such” and inserting the following:

“(2) If, after such”; and

(B) by striking the first sentence and inserting the following:

“(1) Whenever it is charged—

“(A) that any employer—

“(i) discharged or otherwise discriminated against an employee in violation of subsection (a)(3) of section 8;

“(ii) threatened to discharge or to otherwise discriminate against an employee in violation of subsection (a)(1) of section 8; or

“(iii) engaged in any other unfair labor practice within the meaning of subsection (a)(1) that significantly interferes with, restrains, or coerces employees in the exercise of the rights guaranteed in section 7;

while employees of that employer were seeking representation by a labor organization or during the period after a labor organization was recognized as a representative defined in section 9(a) until the first collective bargaining contract is entered into between the employer and the representative; or

“(B) that any person has engaged in an unfair labor practice within the meaning of subparagraph (A), (B) or (C) of section 8(b)(4), section 8(e), or section 8(b)(7);

the preliminary investigation of such charge shall be made forthwith and given priority over all other cases except cases of like character in the office where it is filed or to which it is referred.”

(2) CONFORMING AMENDMENT.—Section 10(m) of the National Labor Relations Act (29 U.S.C. 160(m)) is amended by inserting “under circumstances not subject to section 10(l)” after “section 8”.

(b) REMEDIES FOR VIOLATIONS.—

(1) BACKPAY.—Section 10(c) of the National Labor Relations Act (29 U.S.C. 160(c)) is amended by striking “*And provided further,*” and inserting “*Provided further,* That if the Board finds that an employer has discriminated against an employee in violation of subsection (a)(3) of section 8 while employees of the employer were seeking representation by a labor organization, or during the period after a labor organization was recognized as a representative defined in subsection (a) of section 9 until the first collective bargaining contract was entered into between the employer and the representative, the Board in such order shall award the employee back pay and, in addition, 2 times that amount as liquidated damages: *Provided further,*”.

(2) CIVIL PENALTIES.—Section 12 of the National Labor Relations Act (29 U.S.C. 162) is amended—

(A) by striking “Any” and inserting “(a) Any”; and

(B) by adding at the end the following:

“(b) Any employer who willfully or repeatedly commits any unfair labor practice within the meaning of subsections (a)(1) or (a)(3) of section 8 while employees of the employer are seeking representation by a labor organization or during the period after a labor organization has been recognized as a representative defined in subsection (a) of section 9 until the first collective bargaining contract is entered into between the em-

ployer and the representative shall, in addition to any make-whole remedy ordered, be subject to a civil penalty of not to exceed \$20,000 for each violation. In determining the amount of any penalty under this section, the Board shall consider the gravity of the unfair labor practice and the impact of the unfair labor practice on the charging party, on other persons seeking to exercise rights guaranteed by this Act, or on the public interest.”

By Mrs. FEINSTEIN:

S. 1043. A bill to require the Secretary of Veterans Affairs to submit a report to Congress on proposed changes to the use of the West Los Angeles Department of Veterans Affairs Medical Center, California; to the Committee on Veterans' Affairs.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce legislation to ensure that the land on the West Los Angeles Veterans Affairs, West LA VA, campus is protected for the use of America's Veterans.

The bill would: require the VA Secretary to provide the Congressional Appropriations and Veterans Committees a comprehensive report regarding the master plan for the West LA VA facility and connected property.

The VA was required under Public Law 105-368 to develop a master plan for the West LA VA property.

If the VA has failed to develop the plan, the legislation requires it to complete a master plan prior to implementing any action based on the Capital Asset Realignment for Enhanced Services (CARES) initiative.

The VA would be prohibited from issuing any enhanced-use lease agreements for the West LA VA property until the master plan is completed and submitted to Congress.

Prevent the VA Secretary from implementing any portion of the master plan until 120 days after the submission of the plan to the Appropriations and Veterans Committees.

In addition, the Secretary would be expressly prohibited from pursuing development initiatives regarding the West LA VA property not relating to direct Veterans services unless explicitly authorized by Congress through legislation.

Direct Veterans services are defined in this legislation as any services “directly related” to maintaining the health, welfare, and support of Veterans.

Last year, the Senate approved similar language in the FY07 MILCON/VA Appropriations bill that required the VA to provide the Appropriations Committees a report on the master plan for the West LA VA Medical Center and connected land.

The fiscal year 2007 MILCON/VA Appropriations Act passed the Senate on November 18, 2006.

Unfortunately, all but 2 of the 11 Appropriations bills—including MILCON/VA—were ultimately packaged together in a Continuing Resolution for fiscal year 2007, and the language was never considered by the full Congress.

The bill I am introducing today is absolutely essential in light of a number of unacceptable actions that have previously been taken by the VA that, in my view, violate the spirit, if not the letter, of the law.

Last month, I joined with my colleagues Senator BARBARA BOXER and Congressman HENRY WAXMAN in writing a letter to VA Secretary James Nicholson strongly objecting to recent decisions by the VA relating to the West LA VA facility and land.

Over the past year alone, the VA has permitted the construction of a facility for the Fox Entertainment Group on the West LA VA property, and has approved a lease agreement with Enterprise Car Rental to operate on the campus.

In addition, the VA has allowed the Westside Shepherd of the Hill Church to rent a building on the property in which to hold its Sunday services and provided additional housing space for the University of California-Los Angeles (UCLA).

The VA reportedly has also considered lease projects such as movie productions, a drive-in theater, a circus event, and a golf course.

This must be put to a stop and the legislation I introduce today would do just that.

For too long, commercial interests have trumped the needs of our Veterans.

These 400 acres of land were donated to the government in 1888 specifically for Veterans and should remain that way—just as then-VA Secretary Anthony Principi promised during a visit to Los Angeles in February 2002.

I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1043

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. REPORT ON USE OF LANDS AT WEST LOS ANGELES DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, CALIFORNIA.

(a) FINDING.—Congress finds that section 707 of the Veterans Programs Enhancement Act of 1998 (Public Law 105-368; 112 Stat. 3351) required the Secretary of Veterans Affairs to submit to Congress a report on the master plan of the Department of Veterans Affairs, or a plan for the development of such a master plan, relating to the use of Department lands at the West Los Angeles Department of Veterans Affairs Medical Center, California.

(b) REPORT.—The Secretary of Veterans Affairs shall submit to Congress a report on the master plan of the Department of Veterans Affairs relating to the use of Department lands at the West Los Angeles Department of Veterans Affairs Medical Center, California.

(c) REPORT ELEMENTS.—The report under subsection (b) shall set forth the following:

(1) The master plan referred to in that subsection, if such a plan currently exists.

(2) A current assessment of the master plan.