

HONORABLE LUIS G. FORTUÑO

STATEMENT FOR THE COMMITTEE RECORD

COMMITTEE ON EDUCATION AND LABOR

FEBRUARY 14, 2007 MARKUP ON H.R. 800 & H.R. 493

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At today's markup, the Committee will consider two very important yet very different bills, H.R. 800, the Employee Free Choice Act, and H.R. 493, the Genetic Nondiscrimination Act. While these bills have very distinct purposes - one would make a major change in American labor law with respect to voting and unions, and the other addresses employment discrimination as it relates to genetic testing - both are equally important because they directly affect American workers' most prized fundamental right: individual freedom.

First, like many other Members of the Committee, I have serious concerns with H.R. 800, the Employee Free Choice Act, due to the simple fact that I support private voting in the workplace. I believe that private voting is one of the keystones of American democracy. This bill certainly does not live up to its title of "free choice" - instead, it puts employees at an undemocratic disadvantage and forces employees' personal decisions into the public arena. This bill is designed to place pressure on employees to publicly choose in favor of unions, and in this environment, I am concerned that the union would be able to coerce employees into situations where they have little choice or access to alternative solutions. Even as Members of Congress, we were elected by private ballot, and I believe it should be no different in this particular situation. I do not support H.R. 800, rather, I will support any effort to preserve employees' free choice and fundamental rights to a private ballot.

Second, I support the general aim of H.R. 493, the Genetic Nondiscrimination Act. I too believe that access to health care should not be the determinant as to why people stay or

leave a particular job, and that Americans should have the right to decide what to do with their lives professionally regardless of whether or not they have adequate coverage. I do not support any employers' decision to hire or fire an employee based on genetic information. Frankly, decisions to hire or fire an individual should be made on that particular employee's ability to perform, not whether they have or do not have a pre-existing medical condition. Americans should be free to choose their own professional path and make their own individual choices without fear of those choices being taken away.

However, I do have one important concern with this bill. As it stands, the bill does not include language specifying that the bill's protections extend to embryo or fetus *in utero* and that the bill's definition of a child as "born to" a parent improperly denies the protection of the legislation to the unborn or to those adopted. Because this issue is not yet addressed, one possible scenario is that if a woman finds out her unborn child has a genetic defect, she may be pressured by her insurance company or her employer to have an abortion. Or, if a couple wants to adopt a disabled child, they could face negative consequences in terms of coverage provided. As this bill stands, it does not protect women or families. I advocate that this bill should protect not only those unborn children, but adopted children as well. For this, I am hopeful that we can resolve this issue and at that time I will be glad to fully support this legislation.