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April xx, 2009

TO ALL MEMBERS OF THE UNITED STATES CONGRESS:

We are writing to express our strong opposition to the Employee Free Choice Act (EFCA; S. 560, H.R. 1409). As businesses of every size and industry with substantial operations in all 50 states, we collectively employ millions of American workers.

EFCA has three provisions, each of which we oppose. The first provision would require union recognition based on authorization cards signed by a majority of employees. This provision would allow organizing to be conducted in secret, would effectively eliminate the secret ballot election, and would hinder or even eliminate an employer's ability to tell its side of the story and correct misleading union rhetoric. Card check recognition also would effectively disenfranchise employees who oppose unionization and, as courts have repeatedly recognized, is inherently less reliable than traditional election processes for determining whether employees wish to have union representation.

The second provision would enable a union seeking a first contract to require the employer to enter into binding interest arbitration if a collective bargaining agreement were not reached within as little as 130 days. The government-appointed arbitrator would be able to set all terms of a union contract, not limited to wages and benefits, but also including management rights clauses, work rules, use of technology, and other critically important provisions. Compulsory interest arbitration is the antithesis of free collective bargaining and would put an arbitration panel in the position of judging which tradeoffs are in the best interests of the employer, union, and employees. No government-appointed arbitrator should have the power to impose a contract that could radically alter an employer's business model and potentially destroy its competitive advantage and ability to compete in these difficult economic times. This provision would completely overturn the longstanding principle that the parties are obligated to bargain in good faith, but are not compelled to agree to terms they believe will put them in jeopardy. Employers and employees will lose any opportunity to shape the contract if this provision is enacted.

The third provision would significantly increase penalties on employers for certain violations of labor laws. There are significant problems raised by these provisions, including the lack of due process in the mandatory reinstatement provisions and the conversion of the NLRA from a remedial statute to a punitive one. Most telling is the fact that the new penalties are imposed for employer violations and not union violations demonstrates the lack of balance in this ill-conceived bill. It is hard to see how coercion by labor organizations should be favored over coercion by employers.

For these reasons we urge you to oppose EFCA as well as any procedural votes, such as a cloture motion in the Senate, that would lead to its passage.

Sincerely,