Opening Statement of Gregorio Kilili Camacho Sablan, Ranking Member
House Committee on Education and the Workforce
Subcommittee on Health, Labor, Employment and Pensions
Legislative Hearing on
H.R. 2723, *the Employee Rights Act*; H.R. 2776, the *Workforce Democracy and Fairness Act*; H.R. 2775, the *Employee Privacy Protection Act*
June 14, 2017

Thank you Chairman Walberg for holding this hearing today.

At my first hearing as Ranking Member of this subcommittee I stated that the purpose of the National Labor Relations Act was to strengthen unions as an institution in our economy to ensure that wealth is more fairly shared.

When working Americans are empowered to collectively bargain with their employers over wages and conditions of employment, productivity gains can be linked to wage growth.

However, the three bills under consideration today sabotage workers' ability to organize and collectively bargain for a better life. Make no mistake about it, taken together these bills are not just union busting bills, they are union elimination bills.

Workers should have a right to a fair union election. In any normal election, you have to win a majority of those voting to win. H.R. 2723 would require the union to win a majority of all eligible *voters*. This means that every person who does not vote is counted as a "no" vote against the union.

My colleagues all know that is not how our elections work and that many of us would not be here if we had to get 50% + 1 of all eligible voters in our elections.

H.R. 2723 would mandate an election every three years, if 50% of the workforce changed, on whether employees should even have the right to have a representative and collectively bargain. Workers already have democratic rights under union constitutions: they can vote on their collective-bargaining agreements, and, under existing law, they can vote to decertify their unions if they do not want one. This bill would force each local union to misdirect its resources to battle for its very existence on a continuing basis, instead of building a stable collective bargaining relationship. It is fundamentally at odds with the NLRA's stated purpose to promote collective bargaining.

Employees have a right to be fully informed in a union election. Yet both H.R. 2775 and H.R. 2776 would overturn the NLRB's Election Rule that promotes transparency by assuring that the union and the employer have the same employee contact information.

H.R. 2776 would provide three major impediments to union elections. It would impose a minimum 35-day waiting period just to hold an election, even in instances where the employer and employees agree to a speedier election. It would delay pre-election hearings for at least 14 days. And, it reverses a rule that requires litigation on some issues to occur only after the election. The bill would enable frivolous litigation which is often used for the purpose of delay. In fact, employer law firms openly encourage

companies to engage in pre-election litigation as a way to buy time to allow "the heat of the union's message to chill prior to the election."

Mr. Chairman, I ask unanimous consent to introduce a document from the Jackson Lewis law firm website into the record.

The NLRA seeks "to assure employees the fullest freedom of association," and does so by directing the National Labor Relations Board to determine "the unit appropriate for the purposes of collective bargaining". Yet this bill directly empowers employers to gerrymander the bargaining unit, by allowing them to add voters who do not share an "overwhelming community of interest" with those seeking to form a union and might have no interest in joining a union.

As we learned in our February 14 Subcommittee hearing, the NLRB's *Specialty Healthcare* decision ensures the voting unit cannot be gerrymandered by the employer. Eight separate Federal Circuit Courts of Appeals have approved this decision, and not one has overturned it.

Specialty Healthcare has not led to the parade of horribles trumpeted by those who claim that "micro" units would proliferate and create havoc. The median bargaining unit size has remained at approximately 26 in the years before and after the *Specialty* decision.

Before I close, I ask my colleagues not to be deceived by the names given to these union elimination bills. The *Employee Rights Act* takes rights away from employees. The *Employee Privacy Protection Act* does not protect intrusions of an employee's privacy from their employer. And the *Workforce Democracy and Fairness Act* undermines fair and democratic union

elections by allowing unnecessary delay and elections based on gerrymandered voting units.

This is the 27th hearing that this committee had held on unions since the Republicans took over the majority. I hope that in the future we can spend nearly that amount of time on retirement security, job safety and other issues more pressing to the American people.

While we may disagree, I want to thank the Chairman for following regular order on these bills. I also want to thank each of the witnesses for taking the time to prepare their testimony and appear here today.

Finally, I want to recognize a young lady, Nadia Ali, who is here today. Nadia is interning in my office this week as part of a program with the Girl Scouts of America. Welcome Nadia.

I yield back.