



COMMITTEE ON  
**EDUCATION  
& LABOR**  
REPUBLICANS

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**COMMITTEE  
STATEMENT**

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**Statement in Opposition to H.R. 1065  
Rep. Russ Fulcher (R-ID), Republican Leader  
Subcommittee on Civil Rights and Human Services  
Markup of H.R. 7, H.R. 1065, and H.R. 1195  
March 24, 2021**

(As prepared for delivery)

“Thank you. Committee Republicans have long been committed to policies that empower all Americans to achieve success. Discrimination of any kind should not be tolerated, and no one should ever be denied an opportunity because of unlawful discrimination.

My fellow Republicans and I support protections in federal law for pregnant workers and we believe all employers should provide reasonable accommodations, especially since future generations will need to pay for the legislation, we’ve passed in the last 90 days.

We appreciate the bipartisan negotiations that took place during the last Congress to get this bill to where it is today. It’s just one example of how effective this Committee can be when we work in a bipartisan manner, collaborating and negotiating in good faith. I am pleased to see the changes we negotiated last Congress were incorporated in the legislative text this Congress.

When the bill was introduced last Congress, it did not require a pregnant worker — in order to be eligible for an accommodation — to be able to perform the essential functions of the job with a reasonable accommodation. This is a sensible provision now included in the bill.

A definition of “known limitations” related to pregnancy, childbirth, or related medical conditions was also initially excluded. The bill now includes such a definition, including a requirement that employees communicate the known

limitation to the employer. This provision will help workers and their employers understand their rights and responsibilities.

Additionally, the bill as introduced last Congress appeared to allow employees a unilateral veto over offered accommodations. However, the bill now clarifies that reasonable accommodations will typically be determined through a balanced and interactive dialogue between workers and employers. It also did not include a limitation on applicability to employers with 15 or more employees—as is the case in Title VII of the *Civil Rights Act* and Title I of the *Americans with Disabilities Act*—but it now includes the 15-employee threshold.

Finally, the bill now includes a provision that if an employer makes a good faith effort to determine a reasonable accommodation through the interactive process with the employee, the employer is not liable for damages.

Unfortunately, while successful bipartisan negotiations from the 116<sup>th</sup> Congress have improved the bill, one major issue remains. The legislation we will consider could result in religious organizations being denied protections they receive under current law.

There is a long-standing provision from the *Civil Rights Act* that protects religious organizations from being forced to make employment decisions that conflict with their faith.

As you know, the First Amendment guarantees all Americans the freedom of religion, and for more than 240 years, Supreme Court decisions and laws written by Congress have maintained strong protections for religious liberty. Excluding such a provision in this bill would lead to confusion and potentially a constitutional challenge. We should be mindful to protect religious liberty and to maintain this kind of protection like those found in other, similar laws.

Fortunately, ranking Member Foxx will offer an amendment to address this critical inadequacy in an otherwise commendable bill. I ask my Committee Democrat colleagues to continue down the path of bipartisanship and collaboration on this legislation and support Representative Foxx's commonsense amendment."

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