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Education and the Workforce Committee Hearing on
Compulsory Unionism Through Grievance Fees: The NLRB's Assault on Right to Work
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My name is Mark Mix. I am President of the National Right to Work Committee, a 2.8 million member citizens' organization dedicated to the elimination of compulsory unionism. On behalf of our 2.8 million members and supporters across the country, I thank the chairman and members of this committee for taking the time today to examine the Right to Work issue, and the NLRB's assault on the freedom of American workers to decide for themselves whether a labor union deserves their financial support.

At this point, most people know that Right to Work means more jobs and a better economy. Most people know that forcing anyone to bankroll an organization against their will just to keep their job is wrong. It's also not hard to see how forced unionism can breed corruption and abuse.

But the NLRB's newest assault on Right to Work laws through the "grievance" process is particularly deceptive, so I'd like to begin by defining a few terms.

Right to Work is the simple freedom to choose whether or not to financially support the labor union that has imposed its monopoly power over you.

Imagine yourself standing just outside this building when a cab pulls up. Two guys grab you and pull you into the cab with them. When the driver announces that the cab is on its way to Baltimore, you protest, but the other two passengers tie you up and do not let you get out.

The driver ignores your protests.

After the lengthy drive, he finally pulls over. The car stops and they untie you. But before they let you go, the driver demands $100, “For the cab fare,” he explains.

“You’ve got to be kidding,” you say. “You forced me to go with you. I had nothing to say about it.”

“But you don’t understand,” they tell you. “We had a vote, and the majority rules. And unless you pay your share of the ride, you’re a ‘free rider.’ We have every right to make you pay.”

“But I didn’t want to go to Baltimore, I just wanted to go home,” you say. “I’m a kidnap victim!”

In a nutshell, I have just illustrated how federal and state labor laws allow union officials to abuse the freedom of working people to earn an honest living for themselves and their families.

If this taxi ride were to happen for real, the driver of the taxi would be arrested for kidnapping and extortion. Forced unionism makes no more sense.

Under current law in all 50 states, employees who never requested nor wanted union representation can be forced to accept a labor union as their exclusive monopoly bargaining agent, be forced to work within the union’s monopoly-negotiated contract and be forced to accept the union’s grievance process.

In the 25 non-Right to Work states, this injury is compounded by forcing workers to pay for this so-called "representation" which they did not ask for, do not want, and which may even be working against their best interests.

But the NLRB's new "fee-for-grievance" scheme would give union officials a way to extract "fees" from nonunion workers –- fees that could in fact be greater than regular dues -- leaving the Right to Work Law on the books, but severely emasculated.

You see, the grievance process is entirely controlled by the union contract, and it is entirely inseparable from the contract. If the NLRB could legally force workers to pay for grievance processing, it would directly contradict section 14(b) of the Taft-Hartley Act and fundamentally undermine every existing state Right to Work law.

The whole "fee for grievance" scheme hangs on the AFL-CIO-created fiction that employees "choose" to use union representation in grievance proceedings.

Nothing could be further from the truth. Federal law virtually forces workers to use the union grievance process.

Federal law requires that workers not be given a choice as to who represents them in a grievance.

* The union MUST be invited to participate in all grievance proceedings.

* The employer can refuse to meet with anyone other than the union representative. In fact, if the employer agrees to let an employee bring in an outside

representative, he exposes himself to an unfair labor practice complaint.

* Any resolution to a grievance must comply with the union contract, essentially giving the union hierarchy veto power over the decision.

The matter is simple. This union-controlled grievance process is often the weapon Big Labor uses against non-members in the workplace.

In fact, history has shown that union officials all too often initiate on-the-job discrimination, which forces a worker into a process the union bosses control, in order to punish him or her for not joining the union in the first place.

At the end of the day, this whole scheme is nothing more than an elaborate ruse, designed to gut Right to Work laws.

You see, Big Labor's whole intellectual house of cards is built on two myths that they desperately want you to believe.

And both myths are designed to cover up facts that union officials do not want you to understand.

First, despite what you have heard and will continue to hear from all manner of union officials, federal law **does not** require them to represent all workers.

Unions are perfectly free under federal law to negotiate a contract that only sets the terms and conditions for their own voluntary members.

Indeed, this practice was common in the first several years after the adoption of the National Labor Relations Act in 1935.

But a monopoly is a powerful thing.

That's why, instead of exercising this perfectly legitimate members-only bargaining option, today's union bosses consistently take advantage of the provisions of federal law that give them the tyrannical power to force every worker to submit to their monopoly bargaining -- what the law euphemistically calls "exclusive representation."

By exercising this power, they forbid individual workers to represent themselves.

Then these same union officials turn around and falsely complain that stripping away these workers' right to self-representation has somehow become a "burden" to the union, entitling them to forced dues or, in the case of the current NLRB scheme, "fees" for grievance processing. This is among the most brazen hypocrisies you will ever find in American politics.

The other truth that Big Labor doesn't want you to understand is that the union contract virtually ALWAYS harms some workers in order to benefit others.

* Contracts that base pay entirely on seniority work against a new employee who would love to work harder, longer or smarter, and be rewarded for it. He cannot. And no matter how much better he works, he will be the first one fired.

* Contracts that trade away wages in favor of gold-plated health insurance plans work to the advantage of older employees and retirees, and against young employees who would rather have a simple health plan and a couple extra dollars an hour.

* Union contracts regularly hold back the most productive workers, and prominent pro-union theorists freely admit this fact.

Richard Rothstein, research associate of the union-backed Economic Policy Institute, commented that, “In [unionized] firms, wages of lower paid workers are raised above the market rate, with the increase offset . . . [in part] by reducing pay of the most productive workers.”

And Harvard economist Richard Freeman, one of the leading academic apologists for forced unionism, actually **praised** Big Labor for “removing performance judgments as a factor in determining individual workers’ pay.”

So don’t be fooled. Independent-minded workers are routinely being forced to accept a union as their bargaining agent and are being forced to work under contracts that harm their interests.

It is an outrage to force people to pay for this so-called “representation” that they did not ask for, do not want and would be better off without.

Federal law that was supposedly constructed to “protect” workers actually contains some of the most deliberately misleading language one could imagine. Let me read the essential

portion of Section 7 of the National Labor Relations Act, entitled “Rights of Employees”:

> Employees shall have the right to self-organization to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all such activities . . .

Now, what could be fairer than that?

Unfortunately, the sentence does not end there. It continues:

Employees shall have the right to refrain “except to the extent that such right may be affected by an agreement requiring union membership as a condition of employment . . . .”

That “except,” and the words that follow, have to be one of the most cynical exercises in legislative deception on record.

Fortunately, since 1947, federal law has also allowed states the ability to partially right this wrong by passing a state Right to Work law.

So far, 25 states have done so, and Big Labor is not taking that lying down.

That’s why this out-of-control National Labor Relations Board is now laying the groundwork to cut the heart out of all 25

existing Right to Work Laws by allowing union officials to charge fees to non-members whenever the grievance process is triggered at their workplace.

Congress must put a stop to this deliberate attempt by unelected bureaucrats to gut the 25 state Right to Work laws.

But stopping this scheme is just the beginning of the solution. Ultimately, every American deserves to be able to make their own decisions about supporting a union.

That's why I urge this Congress to pass the National Right to Work Act (H.R. 612).

The Right to Work Act does not add a single word to federal law. It would simply delete the NLRA's and RLA's cynical exception to employees' right to refrain from union participation.

That would free workers in all 50 states from the burden of being forced to support a union that they despise.

The collection of forced dues is so odious that even the most avid promoters of compulsory unionism are forced to defend it on the basis of expediency, not principle.

No less an authority than Bill Clinton's former Secretary of Labor, Robert Reich, put this most succinctly. As a Harvard lecturer in 1985, Reich gave the following explanation of federal labor law to an Associated Press reporter -– and I quote his exact words:

In order to maintain themselves, unions have got to have some ability to strap their members to the mast.

Secretary Reich has accurately –- if callously –- described the basic assumption of federal labor law –- that the convenience of union officials must take precedence over the freedom of employees who wish to earn a living for themselves and their families.

It’s a bad assumption, and it should eventually be changed.

But in the interim, you have the power to make the situation better with a National Right to Work law, which would at least guarantee that workers need not pay to have their rights taken away.

The underlying philosophy of those who believe in the Right to Work principle can be best summed up by the words of Samuel Gompers, founder of the American Federation of Labor, who urged “devotion to the fundamentals of human liberty –- the principles of voluntarism. No lasting gain has ever come from compulsion. If we seek to force, we but tear apart that which, united, is invincible.”

Right to Work is fundamentally an issue of individual freedom.

The NLRB’s plan to undercut Right to Work laws is an outrage to working men and women all across this country.

I urge this Committee, and this Congress, to take all measures necessary to prevent the rogue NLRB from implementing

this scheme, including, ultimately, passage of the National Right to Work Act.