



**Opening Statement of Rep. Bob Good (R-VA), Chairman
Subcommittee on Health, Employment, Labor, and Pensions
Hearing: “NLRB Overreach: Trampling on Workers’ Rights and Fostering
Unfairness”
June 12, 2024**

(As prepared for delivery)

Thank you to my fellow Subcommittee members for coming together to examine the National Labor Relations Board under the leadership of Chairman Lauren McFerran, who President Biden recently renominated to the Board. Thank you to the witnesses for joining us as well. I look forward to your testimony.

Chairman McFerran assumed leadership of the NLRB the very day President Biden took office. Under her watch, the NLRB has undergone a shocking transformation. Once a fair and balanced arbiter of labor law consistent with the *National Labor Relations Act* (NLRA), the NLRB has become the action arm for Big Labor.

But Big Labor bias is a losing strategy for the country. Big Labor bias is harmful to companies, employees, and ultimately—consumers. After three years of this NLRB’s decision-making, the typical American worker is far worse off.

Real wages are decreasing, and workers’ paychecks are stretched more than ever. Average workers’ prospects for realizing the American dream of homeownership are disappearing. Workers watched Biden promise “to make sure the economy works for everyone” in his State of the Union address back in March. But Bidenomics only works for unions and union bosses.

The American working class knows that unions are a tired, outdated, remnant of yesteryear. It is no wonder that some pundits and pollsters are predicting the GOP may carry the union vote in November.

That’s because workers’ lives are worse after three years of President Biden. The last thing they need is for their paycheck to be docked by a union that doesn’t represent

their interests. In fact, 94 percent of workers didn't vote for their current union representation, and recent NLRB Board decisions could drive that number even higher.

Today, we will discuss a few of the Board's key decisions that have led to the place we are today.

The *Lion Elastomers LLC II* decision expanded protections for union-backed workplace harassment, further eroding trust and cohesion between employees and employers. Under the new standard, it's harder for employers to discipline workers who act inappropriately while engaging in union activity, even if that same behavior in another workplace setting would have consequences.

Similarly, the 2023 *Stericycle Inc.* decision limits employers' rights to maintain neutral workplace rules. The decision's interpretation of Section 7 of the NLRA hampers employers' ability to protect their business and maintain order.

The NLRB has made significant strides toward undermining fair union elections. In November 2022, the NLRB proposed rescinding a Trump-era rule that ensured transparency and fairness in union elections. Among other things, it allowed for the release of vote tallies rather than impounding ballots during litigation over "blocking charges."

Perhaps the most troubling is the 2023 *Cemex Construction Materials Pacific* decision, which fundamentally alters the union recognition process. It permits unions to demand recognition from employers based on a claim of majority support, thereby bypassing the secret-ballot election process. This decision removes the democratic element of in-person, secret-ballot elections, replacing them with coercive measures that pressure employers into union recognition without proper verification.

Under Chairman McFerran's leadership, the Board has engaged in "gross mismanagement" in the conduct of mail ballot elections, according to an October 2023 report from the NLRB Inspector General. Furthermore, an investigation conducted by this Committee revealed numerous findings of similar mismanagement in the administration of mail ballot elections across the country. It is a testament to how radical this Board is, as it ignores its clear legal duties to manage fair elections in favor of overturning decades of precedent.

Rather than take ownership of this mismanagement, the NLRB under Chairman McFerran has yet to comment publicly on the mismanagement of mail ballot elections, and, despite the Committee's requests, it is unknown whether the Board has sought to fix these problems internally.

Exposing and highlighting—or lowlighting—the Board's mismanagement and undermining of key principles of the NLRA, is the primary objective of this hearing. It also raises the question of whether Chairman McFerran should be renominated, a question the Senate should answer by holding a confirmation hearing.