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Lee (FL)
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McClain
McClintock
McCormick
McHenry
Meuser
Miller (IL)
Miller (OH)
Miller (WV)
Miller-Meeks
Mills
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Moore (AL)
Moore (UT)
Moran
Murphy
Nehls
Newhouse
Nunn (IA)
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Posey
Reschenthaler
Rodgers (WA)
Rogers (AL)
Rogers (KY)
Rose
Rosendale
Rouzer
Roy
Rutherford
Salazar
Scalise
Schweikert
Scott, Austin
Self
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smucker
Stauber
Steel
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Tenney
Thompson (PA)
Tiffany
Timmons
Turner
Valadao
Van Drew
Van Duyne
Van Orden
Wagner
Walberg
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Weber (TX)
Webster (FL)
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Lee (CA)
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Leger Fernandez
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Sykes
Takano
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Thompson (CA)
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Vargas
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Carson
Carter (TX)
Cleaver
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Foushee
Garcia (TX)
Granger
Grijalva
Hageman
Huffman
Jackson Lee
Jacobs
LaMalfa
Landsman
Magaziner
Mfume
Mooney
Norman
Pence
Phillips
Sessions
Spartz
Trone

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining.

□ 1417

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. GARCIA of Texas. Mr. Speaker, due to illness, I was unable to vote during the first vote series. Had I been able to vote, I would have voted:

YEA on roll call No. 179, H.R. 3354, to designate the facility of the United States Postal Service located at 220 North Hatcher Avenue in Purcellville, Virginia, as the ''Secretary of State Madeleine Albright Post Office Building;''

NO on roll call No. 180, the Motion on Ordering the Previous Question on H. Res. 1194; and

NO on roll call No. 1861, H. Res. 1194, the Rule providing for consideration of H.R. 6192, H.J. Res. 109, H.R. 2925, and H.R. 7109.

PERSONAL EXPLANATION

Mr. BAIRD. Mr. Speaker, unfortunately, due to a district commitment, I was unable to cast three votes today. Had I been present, I would have voted:

YEA on Roll Call No. 179, H.R. 3354, to designate the facility of the United States Postal Service located at 220 North Hatcher Avenue in Purcellville, Virginia, as the ''Secretary of State Madeleine Albright Post Office Building;''

YEA on Roll Call No. 180, the Previous Question on H. Res. 1194; and

YEA on Roll Call No. 181, H. Res. 1194, the Rule providing for consideration of H.R. 6192, H.R. 7109, H.R. 2925, and H.J. Res. 109.

ELECTING A MEMBER TO A CERTAIN STANDING COMMITTEE OF THE HOUSE OF REPRESENTATIVES

Mr. AGUILAR. Mr. Speaker, by direction of the Democratic Caucus, I offer a privileged resolution and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1204

Resolved, That the following named Member be, and is hereby, elected to the following standing committee of the House of Representatives:

COMMITTEE ON HOMELAND SECURITY: Mr. Kennedy (to rank immediately after Mr. Suozzi).

Mr. AGUILAR (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONGRESSIONAL DISAPPROVAL OF THE RULE SUBMITTED BY THE NATIONAL LABOR RELATIONS BOARD RELATING TO ''STANDARD FOR DETERMINING JOINT EMPLOYER STATUS''—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. DESJARLAIS). Pursuant to the order of the House of May 6, 2024, the unfinished business is the further consideration of the veto message of the President on the joint resolution (H.J. Res. 98) providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the National Labor Relations Board relating to ''Standard for Determining Joint Employer Status''.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is, Will the House, on reconsideration, pass the joint resolution, the objections of the President to the contrary notwithstanding?

(For veto messages, see proceedings of the House of May 6, 2024, at page H2840.)

The SPEAKER pro tempore. The gentleman from Virginia (Mr. GOOD) is recognized for 1 hour.

Mr. GOOD of Virginia. Mr. Speaker, for purpose of debate only, I yield the customary 30 minutes to the gentleman from Virginia (Mr. SCOTT), the ranking member on the Committee on Education and the Workforce, pending which I yield myself such time as I may consume.

GENERAL LEAVE

Mr. GOOD of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the veto message on H.J. Res. 98.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. GOOD of Virginia. Mr. Speaker, I rise today in support of overriding President Biden's veto of H.J. Res. 98. A vote in favor of this resolution will nullify the Biden administration's attempt to redefine what it means to be a joint employer under the National Labor Relations Act.

After receiving bipartisan support from both Chambers, Congress sent H.J. Res. 98 to the President's desk showing our broad disapproval of the new joint employer rule. Now, with President Biden's veto, the message from the administration is clear: Franchise businesses are not welcome partners in the Biden economy.

In fact, the Biden administration wants to return to the harm done during the Obama-Biden administration, when this rule was first in effect and cost the economy more than $30 billion and nearly 400,000 jobs on an annual basis for the 5-year period until President Trump, thankfully, reversed the rule.

It also benefited the Democrats' favorite trial lawyers when lawsuits against franchise businesses increased by 93 percent.

The joint employer rule overturns legal precedent that was in place from 1984 to 2015. It is a direct attack on the thousands of small businesses that make up the healthy and growing franchise sector.

Currently, a business is considered an employer only if they exercise direct and immediate control over an employee's essential terms and conditions of employment. However, the new rule establishes that two or more businesses are in a joint employer relationship if one employer merely exercises indirect control over another company's employees.

Under this standard, something as simple as a franchisor giving a franchisee a company handbook could be interpreted as exercising indirect control.

Changing the definition of who controls a business creates confusion and threatens the independence of so many successful small business owners.

Biden's rule will saddle franchisors with liability for independent franchise owners, over which they do not have control. Inevitably, the result of this rule will be less growth, more lawsuits, and the functional transformation of businessowners into middle managers.

It is already very difficult to operate a small business today in Biden's America. The administration's response to high inflation, low workforce participation, and high interest rates, which are causing so much economic hardship from Bidenomics, is to aggressively pursue an anti-employer, antiworker, pro-union-boss agenda.

We must protect the model that is currently working for businesses and eliminate the threat of this new rule.

Mr. Speaker, I urge my colleagues to vote in favor of overriding the President's veto of H.J. Res. 98, and I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I thank my colleague from Virginia for yielding time, and I yield myself such time as I may consume.

I rise once again in strong opposition to H.J. Res. 98, the Congressional Review Act resolution to repeal the National Labor Relations Board's joint employer rule, which the board finalized last October.

Workers should be able to negotiate for higher pay, better benefits, and safer workplaces through their unions. Regrettably, this is not the case for millions of Americans, including janitors, housekeepers, cooks, and many others who are employed through subcontractors or temp agencies.

The rise of what is called the fissured workplace, where firms increasingly use overlapping arrangements of contracting, subcontracting, and temping, has weakened workers' bargaining power and allowed large corporations to evade bargaining obligations and liabilities.

□ 1430

For example, if an employee of a subcontractor unionized, the subcontractor would be unable to actually bargain over pay, hours, workplace safety, or other issues. That is because the actual contract is with the prime contractor who essentially sets the terms and conditions of employment for the employee, and the subcontractor is just administering the terms of that contract. Bargaining with the subcontractor becomes essentially useless because the subcontractor is paid based on assumed wages, and they don't have the ability to change those wages. The prime contractor needs to be at the table if someone is thinking of negotiating wages at all.

Additionally, by evading bargaining obligations, the prime contractor, who is actually setting some or all of the terms of conditions of the work, can actually shift liability for an unfair labor practice onto the subcontractor or the temp agency.

Mr. Speaker, the NLRB's new rule fixed the problem by ensuring workers can negotiate with all entities who actually control their working conditions. This also protects small businesses from being held liable for labor violations that are a result of the larger firms' actions.

This isn't about franchising. No franchiser has ever been found to be a joint employer under any of the various joint employer rules, including this one.

H.J. Res. 98 would undermine workers' ability to exercise their rights and reinstate the deficient Trump-era rule that narrowed the joint employer standard. Under the Trump-era standard, employers who control the working conditions could easily evade their obligations to collectively bargain with employees. That would have the effect of reducing the earnings of workers.

According to the Economic Policy Institute, the Trump-era rule would reduce workers' hard-earned paychecks by about $1.3 billion. Conversely, the Biden joint employer rule is estimated to raise workers' earnings.

So we should not go backwards. The Biden-Harris administration's joint employer rule empowers workers and protects small businesses, so I applaud President Biden for his veto of H.J. Res. 98.

So let's be clear. This is not about the joint employer rule. We have already had that debate back in January.

This is a debate about the Republican majority's inability to do basic arithmetic. Overriding the President's veto requires two-thirds, or 290 Members, of the House. That is not going to happen. This measure only passed with 206 votes, nearly all of them from Republicans, so anybody who can count knows the Republican majority does not have the votes to override the veto.

So why are we taking this up?

It is because we are just a metaphor for the Republicans' failed agenda. Instead of taking time to do something constructive, we are taking precious floor time on this doomed override vote when we could be doing something better like raising the minimum wage, or making workplaces safer and healthier, or ensuring women receive equal pay for equal work, or combating child labor, or establishing paid sick leave, or strengthening workers' ability to organize and collectively bargain.

However, that is not what we are doing. All that is happening now is what has happened during the whole 118th Congress: the House majority insists on spending floor time on votes like this that have no chance of succeeding.

So House Democrats believe we can do better. We remain focused on the priorities and others that lower costs and grow the middle class. That is what we ought to be focused on.

Mr. Speaker, I reserve the balance of my time.

Mr. GOOD of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is and always will be about labor unions. That is essentially what my friend from the Commonwealth of Virginia just said. However, we need to go back to pro-growth policies when real wages were growing for everyone, when unemployment was at a record low for everyone, and there were millions more Americans working during the Trump administration.

Bidenomics and Bidenflation don't work. This is a recession back into the past here. It is not going to work. We are not responsible for what the Senate does, Mr. Speaker. We are not responsible for what the White House does. The Senate actually agreed with us on this on a bipartisan basis, and the House did this on a bipartisan basis.

Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. JAMES).

Mr. JAMES. I thank Mr. GOOD for yielding, and I appreciate the opportunity to address my colleagues and you, Mr. Speaker.

It has been said that government doesn't create jobs, but they sure know how to kill them.

I agree with that.

Listening to my colleagues here today, I have to restate, Mr. Speaker, that the American Dream is worth fighting for.

Franchises create the surest and shortest path for entrepreneurs, working people in my district, and all across the country to achieve the American Dream. The reason we are here again is because we are giving our colleagues the opportunity to tell the American people that they will choose them and

their American Dream over the special interests and political selfishness that choosing their own best interests may lead to.

The right to collectively bargain was established by this body in 1935, and the right to work was enshrined in Michigan's constitution just last year. However, once again, the Biden administration has gone too far.

Franchise businesses are the path out of situations for people in urban America, rural America, and everywhere in between.

The Biden-led National Labor Relations Board resurrected a policy that, when imposed during the Obama Administration, saw jobs lost and dreams crushed. The last rule saw 376,000 lost job opportunities in the franchise sector.

It was also said what might happen, what could happen, and what should happen, and then I heard fixing a problem. It sounds like people who have never had the chance to live under the rules they are creating are now creating organizations and structures that they won't have to live under. This is exactly the reason we were elected to come here to represent our constituents' interests and not the interests here, Mr. Speaker.

Thanks to President Biden's policies, we have inflation and regulation, not success and determination.

My colleagues on this side of the aisle are willing to bet on America and are willing to bet on the entrepreneurial spirit while also respecting the right to collectively bargain without burdensome regulations that we know stifle the American Dream.

The President's veto is clear.

Mr. Speaker, while the President and the Vice President go around the country saying they are friends of small business, their administration is literally putting policies in place that crush it.

The only reason our colleagues would not vote to override this veto is because they are in lockstep with the administration, prioritizing politics over people. They have the opportunity to vote along with us, to overturn these harmful policies to allow Americans to self-determine without threat to their right to collectively bargain.

This is a clear opportunity to get this right, and I hope my colleagues on the other side will support our endeavor to do the right thing for the people in our districts who, no doubt, shed blood, sweat, and tears to make their dream a reality.

As our President seeks to make the case to the American people, he should not assume that small business is the enemy.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think we have to get some job numbers rather than just adjectives and everything on the table.

The fact is that President Trump during his 4 years lost over 6 million jobs, but President Biden so far has created over 15 million, the longest period of time with unemployment under 4 percent since the 1960s.

Before you start excusing President Trump because of a pandemic, he had a pandemic for about 10 months, President Biden had a pandemic for 2 years.

So this legislation the President has vetoed, I think it is helpful just to read the President's message of why he vetoed the resolution.

He said: ''I am returning herewith without my approval H.J. Res. 98, a resolution that would disapprove of the National Labor Relations Board's rule entitled 'Standard for Determining Joint Employer Status.'

''Since day one, my administration has fought to strengthen workers' right to organize and bargain for higher wages, better benefits, and safer working conditions. The NLRB's rule would prevent companies from evading their bargaining obligations or liability when they control a worker's working condition—even if they reserve such control or exercise it indirectly through a subcontractor or other intermediary. If multiple companies control the terms and conditions of employment, then the right to organize is rendered futile whenever the workers cannot bargain collectively with each of those employers.

''Without the NLRB's rule, companies could more easily avoid liability simply by manipulating their corporate structure, like hiding behind subcontractors or staffing agencies. By hampering the NLRB's efforts to promote the practice and procedure of collective bargaining, Republicans are siding with union-busting corporations over the needs of workers and their unions. I am proud to be the most pro-union, pro-worker President in American history. I make no apologies for my administration protecting the right to organize and bargain collectively.

''Therefore, I am vetoing this resolution.

''Joseph R. Biden, Jr.''

Mr. Speaker, I reserve the balance of my time.

Mr. GOOD of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have to hand it to my friend from Virginia. He is resilient, but he has got a tough job trying to defend the economic record of the current administration.

We have got some 4 million people less working than were working when he became President. Everyone knows that under the previous administration, again, we had record-low unemployment and record-high labor participation. Now we have a record-low labor participation rate.

We had unemployment that was at record lows for everyone during the previous administration and real wage growth under the previous administration.

Now we have 40-year high inflation. Inflation was nonexistent before this President got into office. We have 20-year high interest rates which are further crushing the American people. We have got our credit being downgraded because of the reckless, excessive, wasteful, and unprecedented spending which will cause interest rates to go even higher.

Mr. Speaker, you can't fool the American people. You can't tell them it is good when they know that it is bad. They are suffering at the grocery store, they are suffering when they pay the utility bill, they are suffering at the gas pump, they are suffering when they make the mortgage payment or when they make the rent payment, and they are suffering when they are unable to afford to buy a home, especially for young people starting out.

This is all a direct result of bad policy from this President. This is just one more example as he vetoes the will of the American people reflected in a bipartisan manner by both Houses of Congress sending him legislation to overturn this rule, and yet he has vetoed it and has forced us to try to overcome his veto today.

Mr. Speaker, I am prepared to close if the gentleman from Virginia is prepared to close, and I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I include in the RECORD letters in opposition to this resolution in support of the President's veto from SEIU, AFL–CIO, and the Teamsters.

NOVEMBER 2, 2023.

DEAR REPRESENTATIVE: On behalf of the 12.5 million workers represented by the AFL–CIO, the 2 million workers represented by SEIU, and the 1.2 million workers represented by the International Brotherhood of Teamsters, we write to urge you to support the National Labor Relations Board's (''NLRB'' or ''the Board'') recent final rule addressing joint-employer status under the National Labor Relations Act (''NLRA'' or ''the Act''). This important rule will ensure that workers have a real voice at the bargaining table when multiple companies control their working conditions. Accordingly, the undersigned unions strongly oppose any effort to nullify or weaken the rule, whether by legislation or resolution under the Congressional Review Act.

The rule, published on October 27, 2023, rescinds the Trump NLRB's 2020 joint-employer rule and replaces it with an updated standard that is based on well-established common-law principles and consistent with recent D.C. Circuit decisions identifying critical flaws in the Trump NLRB's approach to this issue. The Board's updated rule is welcome and necessary because the Trump rule was harmful to workers' organizing efforts, inconsistent with the governing legal principles, and against the policies of the Act.

The crux of this issue is simple—when workers seek to bargain collectively over their wages, hours and working conditions, every entity with control over those issues must be at the bargaining table. The Act protects and encourages collective bargaining as a means of resolving labor disputes. Collective bargaining cannot serve that purpose if companies with control over the issues in dispute are absent from the bargaining table. The Trump rule offered companies a roadmap to retain ultimate control

over key aspects of workers' lives—like wages and working conditions—while avoiding their duty to bargain. This standard left workers stranded at the bargaining table and unable to negotiate with the people who could actually implement proposed improvements.

Companies are adopting business structures specifically designed to maintain control over the workers who keep their businesses running while simultaneously disclaiming any responsibility for those workers under labor and employment laws. Such businesses often insert second and third-level intermediaries between themselves and their workers. These companies seek to have it both ways—to control the workplace like an employer but dodge the legal responsibilities of an employer. This phenomenon is often called workplace ''fissuring.''

Fissured workplaces, sometimes involving staffing firms, temp agencies, or subcontractors, often leave workers unable to raise concerns, or collectively bargain with, the entity that actually controls their workplace. In such arrangements, multiple entities may share control over a worker's terms of employment. For example, if employees of a subcontractor were to unionize and bargain only with the subcontractor, it might simply refuse to bargain over certain issues because its contract with the prime contractor governs those aspects of the work (e.g., pay, hours, safety, etc.). This harms workers because the entity that effectively determines workplace policy is not at the bargaining table, placing workers' desired improvements out of reach.

The way to ensure that workers can actually bargain with each entity that controls their work is to readily identify such entities as ''joint employers.'' The Act requires joint employers to collectively bargain with employees over working conditions that they control. But the Trump NLRB's joint employer rule was designed to help companies with such control escape bargaining. The rule's standard for finding a joint employment relationship was unrealistic and overly narrow. It conditioned a company's joint employer status on proof that it actually exercised substantial direct and immediate control, discounting its reserved or indirect power to control a small list of working conditions. This conflicts with the governing common law principles, which make clear that a company's power to control working conditions must bear on its employer status (and thus its bargaining responsibilities under the Act) regardless of whether it has formally exercised that power. The new final rule correctly rescinded the Trump rule.

Critics of the new rule claim that its joint employer standard will outright destroy certain business models or dramatically change operations. Opponents claim, for example, that companies will be required to bargain over issues they have no control over, or will be automatically liable for another entity's unfair labor practices. This is simply untrue and a further attempt to leave workers with no opportunity to bargain with controlling entities. The final rule makes it clear that a joint employer's bargaining obligations extend only to those terms and conditions within its control. And current Board law—unchanged by the rule—only extends unfair labor practice liability to a joint employer if it knew or should have known of another employer's illegal action, had the power to stop it, and chose not to.

Similarly, critics claim that the new standard imposes blanket joint employer status on parties to certain business models like franchises, temp agencies, subcontractors, or staffing firms. This is also untrue. The rule does not proclaim that all franchisors are now joint employers with their franchisees, or that any company using workers from a temp agency is automatically their employer. The particular business model used by parties in any case is not determinative. Instead, the Board looks at every case individually, and grants companies a full and fair opportunity to explain the underlying business relationship and dispute whether they control the relevant workers' essential terms and conditions of employment. The Board conducts a fact-specific, case-by-case analysis that considers whether the putative joint employer controls essential terms and conditions of employment.

Make no mistake, the Board's rule may well result in the employees of a staffing firm, for example, being treated also as employees of the firm's client, but only if the client controls the employees' terms and conditions of employment. That is the only way workers can meaningfully bargain at work. But even in that situation, the workers are deemed employees only for purposes of the NLRA and collective bargaining, and the client would be obligated to bargain only about the terms it controls. It would still be up to workers to choose whether they want to organize a union and collectively bargain with their employer or employers. Nothing in the NLRB's rule alters employers' responsibilities under any other state or federal law (e.g., tax laws, wage and hour laws, or workplace safety laws) or requires any changes to business structures. But it does make clear their responsibility under the NLRA to show up at the bargaining table.

The new rule is clear and commonsense: there is no bargaining obligation for an entity that cannot control workplace policies or working conditions. And for good reason—their presence at the bargaining table would be pointless. Workers have no interest in bargaining with a company that lacks the power to implement the workplace improvements they seek.

This rule simply invokes a more realistic joint employer standard on par with the standard enforced during the Obama administration, allowing a company's indirect or reserved control over working conditions to be sufficient for finding joint employer status. Workers' right to collectively bargain cannot be realized if the entity that has the power to change terms and conditions of employment is absent from the bargaining table.

For the reasons explained above, the undersigned unions oppose any effort to nullify the Board's rule. In particular, we urge Congress to oppose efforts to nullify the rule under the Congressional Review Act (''CRA''). Here, a successful CRA disapproval resolution would be particularly harmful: it would revert the NLRB's joint employer standard to the Trump Board's 2020 rule, which stymies workers at the bargaining table. And further, as explained above, at least one federal appeals court has strongly suggested that provisions of the 2020 rule are inconsistent with the NLRA, so litigation would likely invalidate that rule as well. This would create confusion for the workers, unions, and employers regulated by the NLRB. Not only could the two standards be nullified, leaving the Board's joint employer analysis in limbo, but the NLRB's ability to address that limbo would be unclear due to CRA limitations.

The CRA provides that once a disapproval resolution is passed, the underlying agency cannot issue a subsequent rule in ''substantially the same form'' as the disapproved rule unless it is specifically authorized by a subsequent law. Thus, if the Board's new rule is nullified under the CRA, and the prior Trump rule is invalidated by federal courts, the NLRB would be limited in issuing a clarifying rule. To avoid confusion and ensure stability for workers, unions, and employers, Congress must steer clear of using the CRA to address the joint employer standard.

For these reasons, we ask that you support the NLRB's joint employer rule and oppose any effort to weaken or nullify the clarified standard.

Mr. SCOTT of Virginia. Mr. Speaker, I include in the RECORD a letter from the United Steelworkers, in support of the President's veto.

UNITED STEELWORKERS

Pittsburgh, PA, November 14, 2023.

Re: United Steelworkers urges a NO vote on H.J. Res. 98, which would invalidate the National Labor Relations Board's new Standard for Determining Joint Employer Status.

U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE: On behalf of the 850,000 active members of the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW), I write to oppose a misguided and short-sighted Congressional Review Act (CRA) resolution—H.J. Res 98. If this resolution passes, American workers will increasingly face a fractured workplace and lose access to federally protected collective bargaining rights.

Updating the NLRB joint employer standard is necessary as employers are increasingly using ''fissured'' workplace models to keep the parent company from having to bargain with workers employed by the smaller contracted companies. The continued contracting out and increased usage of temporary workers leads to terrible outcomes for the most vulnerable, precisely because these workers lack the ability to meaningfully organize and collectively bargain with their appropriate employer(s).

For example, a 2014 National Employment Law Project report found that workers at subcontracted firms receive wages from 7–40 percent lower than their non-contracted out peers. That same study also showed that workers in subcontracted firms suffer higher rates of wage theft and unpaid overtime. Analysis from ProPublica has also shown that temp workers are at an increased risk of workplace injury. Lastly, and perhaps most chillingly, child workers have been found in meatpacking plants, while auto-supply chains in the South have had children as young as 14 years old working for subcontracted firms—sometimes with deadly consequences. If this resolution passes, Congress will have made it easier for corporations to shirk responsibility of their employment oversight, and make it harder for the American labor movement to stop labor abuses such as wage theft, unpaid overtime, workplace injuries, and child labor.

The NLRB had to act as the result of a partisan rulemaking process during the Trump administration. Prior to 2020, the NLRB's assessment of a joint employer standard had been guided by common law for over 50 years. The NLRB, as a quasi-judicial body, would use case decisions to substantiate its joint employer standard.

The Trump administration's NLRB dramatically broke with precedent and created a regulatory rulemaking process to establish a new joint employer standard. Through this final rule, the previous NLRB added non-statutory and non-common law requirements to the NLRB joint employer assessment—notably, the requirement that an employer must ''possess and exercise . . . substantial direct and immediate control'' over a worker's ''essential terms and conditions of employment'' to be considered joint employers.

The problem with this Trump era rule is that it significantly constrained the NLRB's

ability to exercise jurisdiction over cases, and limited the scope of the joint employer standard on when the NLRB can weigh in. With such a weak standard, employers were able to simultaneously influence a worker's wages, hours, and working conditions—all while being inoculated from having to bargain over those issues with their workers.

By returning to common-law principles in this new standard, the NLRB provides ''a practical approach to ensuring that the entities effectively exercising control over workers' critical terms of employment respect their bargaining obligations under the NLRA''.

Unfortunately, Representative James John (R–MI–10), along with 29 other Republicans, introduced a Congressional Review Act resolution to repeal the NLRB's return to past precedent. USW strongly opposes the use of a CRA to undermine the NLRB. If a CRA were to be successfully used, it would prevent the federal agency from ever issuing a substantially similar rule, freezing in perpetuity a process that was designed to evolve with employment practices.

USW opposes H.J. Res 98 in the strongest terms and will educate union membership on any floor vote outcome. The NLRB's released joint employer standard returns the country to prior precedent, and strengthens the legal right of millions of workers across this country to collectively bargain with their appropriate employer(s). Again, I urge you to support this new standard and oppose H.J. Res. 98.

Sincerely,

DAVID MCCALL,
International President.

Mr. SCOTT of Virginia. Mr. Speaker, lastly, I include in the RECORD a letter from dozens of labor and civil rights organizations in support of the veto.

NOVEMBER 20, 2023.

Re: NLRB Joint Employer Rule CRA.

Hon. CHARLES SCHUMER,
Hon. MITCH MCCONNELL,
Hon. BERNIE SANDERS,
Hon. BILL CASSIDY,
U.S. Senate, Washington, DC.
Hon. MIKE JOHNSON,
Hon. HAKEEM JEFFRIES,
Hon. VIRIGINIA FOXX,
Hon. ROBERT ''BOBBY'' C. SCOTT,
House of Representatives, Washington, DC.

DEAR MEMBERS OF CONGRESS: The undersigned organizations write to share our opposition to the Congressional Review Act (CRA) challenge to the National Labor Relations Board's 2023 Joint Employer Rule.

Millions of workers in precarious and subcontracted work depend on the joint-employer doctrine to protect their right to organize under the NLRA. In labor-intensive and underpaid industries like retail, hospitality, fast food, janitorial, construction, and delivery, workers hired through intermediary subcontractors like staffing agencies and specialized contract firms are effectively deprived of their labor rights because the law fails to recognize who their employers are. They provide work central to the hotels, retail operators, fast food chains, construction contractors, delivery companies, and other corporations that rely on their labor but are unable to hold those employers accountable when their labor rights are violated. While this harms a broad range of workers, it has particularly damaging impacts for women, Black workers, immigrants, people of color, and people with disabilities who disproportionately hold precarious, low-paid jobs.

The Board's new rule reaffirms that, under the NLRA, a worker may be jointly-employed when more than one entity shares or co-determines the essential terms and conditions of their work. What matters is not the corporate structure or what the companies call the work relationship; what matters is who has the power to control the essential terms of employment, like pay, discipline, and health & safety on the job.

Now, large corporations and industry trade groups are pushing Congress to vote for a CRA resolution to overturn the rule. Despite the claims made by these self-interested groups, the joint employer rule is a simple and necessary course correction that:

Rescinds the misguided 2020 rule, which improperly narrowed the NLRA's coverage and unmoored the legal standard from the common law, by requiring workers to show that a business had ''substantial direct and immediate control'' over the essential terms of employment;

Grounds the legal analysis in the common law, building on the Obama-era Browning-Ferris decision that the 2020 Trump rule overrode;

Affirms that companies are liable for committing unfair labor practices (such as terminating workers for exercising their right to organize) and required to bargain with their workers as joint employers, where they control the essential terms and conditions of employment;

Accounts for forms of control that are ''indirect'' and ''reserved,'' as well as direct and actually exercised, in determining whether or not there is an employment relationship; and

Recognizes that the ''essential terms and conditions of employment'' include workplace health and safety, and direction as to how to complete the work, as well as control over pay and discipline.

This rule is a major step toward safeguarding the labor rights of millions of workers in subcontracted employment, ensuring that corporations cannot skirt the law simply by outsourcing responsibility for their workers. Should a CRA to overturn this rule be brought to the floor, we strongly urge all Members of Congress to vote No.

Sincerely,

A Better Balance; AFL–CIO; American Federation of State, County, and Municipal Employees (AFSCME); APALA; Asian American Pacific Islander Civic Engagement Collaborative of New Virginia Majority; Bruckner Burch PLLC; Care in Action; Caring Across Generations; Center for Economic and Policy Research; Center for Law and Social Policy; Cincinnati Interfaith Workers Center; Clearinghouse on Women's Issues; Communications Workers of America (CWA); Community Legal Services, Philadelphia; Congregation of Our Lady of Charity of the Good Shepherd, U.S. Provinces.

CRLA Foundation; Demand Progress; Demos; Economic Policy Institute; Endangered Species Coalition; Equal Rights Advocates; Feminist Majority Foundation; Impact Fund; International Brotherhood of Teamsters; Japanese American Citizens League (JACL); Jobs to Move America; Jobs With Justice; Justice & Accountability Center of Louisiana; Justice at Work; Justice in Motion.

Kentucky Equal Justice Center; KIWA; Lawyers' Committee for Civil Rights Under Law; Legal Aid at Work; Long Beach Alliance for Clean Energy; National Advocacy Center of the Good Shepherd; National Center for Law and Economic Justice; National Council for Occupational Safety and Health; National Domestic Workers Alliance; National Education Association; National Employment Lawyers Association; National Employment Law Project (NELP); National Institute for Workers' Rights; National Organization for Women; National Partnership for Women & Families.

National Resource Center on Domestic Violence; National Women's Law Center; New Jersey Association on Correction; North Carolina Justice Center; Northwest Workers' Justice Project; Public Justice Center; Restaurant Opportunities Centers United; Santa Clara County Wage Theft Coalition Service Employees International Union; Shriver Center on Poverty Law; TechEquity Collaborative; The Leadership Conference on Civil and Human Rights; The Legal Aid Society; The Women's Employment Rights Clinic (WERC) at Golden Gate University (GGU); Transport Workers Union of America.

UAW; United Brotherhood of Carpenters and Joiners of America; United Food and Commercial Workers International Union (UFCW); Women Employed; Worker Justice Center of New York; Worker Power Coalition; Workers Defense Action Fund; Workplace Fairness; Workplace Justice Lab at Rutgers University; Workplace Justice Project at Loyola Law Clinic; Worksafe; Young Invincibles.

Mr. SCOTT of Virginia. Mr. Speaker, I just want to reiterate that the credit rating that was threatened was the result of the Republicans threatening a default on our debt. That wasn't anything the Democrats had done.

Again, I just reiterate that under Biden over 15 million jobs were created. Under Trump over 6 million were lost. We have had the longest period of time of unemployment, under 4 percent, since the 1960s. I think that is a fairly easy record to defend.

□ 1445

Mr. Speaker, in closing, there is no reason to override the President's veto, and the votes aren't going to be there. Unfortunately, this is how the Republicans have operated during the 118th Congress. This is going to be the least-productive Congress in history.

In contrast, under Democratic leadership, last Congress, we delivered on significant results. We created millions of jobs, reduced unemployment to record lows, and, under this administration, kept it under record lows. We have saved more than a million people's pensions under the multi-employer pension fund, and we helped tens of thousands of businesses because they were legally obligated to pay into those failing funds until the businesses went broke.

We delivered historic funding for education. We improved child nutrition. We brought the number of uninsured Americans down to the lowest level ever. I think we can take credit for all of that.

By prioritizing and wasting time on efforts like this, the Republican majority is failing to live up to the same standard that Democrats have lived up to.

Mr. Speaker, I commend the President for vetoing H.J. Res. 98 and protecting American workers. I urge my colleagues to vote ''no'' on this override effort and yield back the balance of my time.

Mr. GOOD of Virginia. Mr. Speaker, I yield myself the balance of my time to close.

Mr. Speaker, my friend from Virginia said it himself. The unions, the Teamsters and the steelworkers, are for this. That is reason enough to oppose this.

We talked about the credit being downgraded. It is unprecedented in the country, twice to have our credit downgraded during this President's time in office.

The previous President had record job growth and a roaring economy until the pandemic hit. Under this President, of course, some of the jobs that were lost in the pandemic have been recovered, but not all of them.

Again, we have a record-low labor participation rate, meaning the percentage of those able-bodied, working-age Americans who are working is at an all-time low. We don't count those individuals who aren't looking for work in the unemployment numbers. They don't count. You have an artificially low so-called unemployment rate because there are record numbers of Americans on Federal assistance, as we have stripped away all the work requirements for cash welfare, for food stamps, and for housing assistance.

While we on this side measure success by how many people we get off of government assistance, the other side measures success by how many people are on government assistance programs as my colleagues on the other side of the aisle continue to try to grow the amount of people who are paid not to work, which further causes economic harm.

We cannot just cut our spending on our way to prosperity. Again, in this country, we have to grow our way by going back to pro-growth policies.

Mr. Speaker, in testimony before our committee on this issue, the president of the International Franchise Association said: The rule would make franchisees merely employers of and/or co-employers with their franchisor. This will significantly diminish the value of the business that they have spent their entire careers building.

We know his statement is true because we have seen this policy play out before. Years ago, when President Obama's NLRB advanced a similar rule, the International Franchise Association conducted a study on its impact, and research showed that the indirect control standard cost the industry, as my friend from Michigan said, as much as $33 billion annually, killed almost 400,000 jobs, and, once again, increased lawsuits against franchise businesses by 93 percent.

The franchise model represents an opportunity to pursue the American Dream. Congress must stand up for the 9 million franchise workers across the country and override President Biden's veto.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is, Will the House, on reconsideration, pass the joint resolution, the objections of the President to the contrary notwithstanding?

Under the Constitution, the vote must be by the yeas and nays.

Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

HANDS OFF OUR HOME APPLIANCES ACT

GENERAL LEAVE

Mrs. LESKO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on H.R. 6192

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Arizona?

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 1194 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 6192.

The Chair appoints the gentleman from Guam (Mr. MOYLAN) to preside over the Committee of the Whole.

□ 1450

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 6192) to amend the Energy Policy and Conservation Act to prohibit the Secretary of Energy from prescribing any new or amended energy conservation standard for a product that is not technologically feasible and economically justified, and for other purposes, with Mr. MOYLAN in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

General debate shall be confined to the bill and shall not exceed 1 hour equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce or their respective designees.

The gentlewoman from Arizona (Mrs. LESKO) and the gentleman from New Jersey (Mr. PALLONE) each will control 30 minutes.

The chair recognizes the gentlewoman from Arizona.

Mrs. LESKO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Biden administration has waged a war on American energy, and this war has made its way into Americans' homes.

President Biden and the Department of Energy's Secretary Granholm have sacrificed appliance affordability and reliability in their pursuit of a radical rush-to-green agenda. In the name of energy efficiency, the Biden administration has issued rules on home appliances that would drive up costs and make these popular products less reliable and available to the American families.

The Biden administration's new rules do not save a significant amount of energy and are not cost effective. The Biden administration's rules discourage the use of natural gas in favor of the electrification of appliances, regardless of the cost, reliability, or availability. Just look how the minority tried to ban gas stoves before my Save Our Gas Stoves legislation and public outcry dialed it back.

House Republicans are leading to protect Americans from Federal mandates that increase costs, fail to result in significant energy savings, are not practical, and eliminate the performance features of product choices.

My legislation, H.R. 6192, the Hands Off Our Home Appliances Act, fights back against the Biden administration's radical agenda and will preserve the affordability, availability, and quality of the household appliances Americans rely on every day.

Enacted in 1975, the Energy Policy and Conservation Act, also called EPCA, provides specific criteria the Department of Energy must follow in order to propose a new appliance efficiency standard. It is supposed to result in a significant conservation of energy, be technologically feasible, and economically justified.

The problem is that current law doesn't define the parameters for these criteria, so the Biden administration has ignored these critical consumer protections by proposing and finalizing standards that violate the statute.

My bill will define how much energy or water has to be saved. My bill will define that any additional upfront costs to install a new appliance that has new mandated energy efficiency standards will be recuperated within a reasonable period of time.

H.R. 6192 will protect affordability by requiring the Department of Energy to consider the full lifecycle cost of appliances when determining if the new standard is economically justified. The bill requires a 3-year or less payback to the consumer and requires consideration of the cost for low-income households.

No longer will the Biden administration be able to say a savings of 12 cents per month is economically justified, as they have done before, and no longer will a customer have to hold onto their appliance for 8 to 10 or longer years just before they see any cost savings.

The bill establishes a minimum threshold for energy or water savings that must be achieved before imposing new standards. The bill requires that any new standard must achieve at least a 10 percent reduction in energy or water usage. The bill prohibits the Secretary of Energy from banning products based on what type of fuel the product uses so there can be no more natural gas bans.

The bill requires that any new standard cannot affect the duty cycle, charging time, and run time of the covered product or the lifespan of the products. Americans want their appliances to work. The bill will allow the Department of Energy to amend or revoke prior standards if they don't save the