



December 12, 2023

The Honorable Virginia Foxx
Chairwoman
Committee on Education
and the Workforce
U.S. House of Representatives
Washington, DC 20515

The Honorable Bobby Scott
Ranking Member
Committee on Education
and the Workforce
U.S. House of Representatives
Washington, DC 20515

Dear Chairwoman Foxx and Ranking Member Scott:

The U.S. Chamber of Commerce supports two measures to be considered during your December 12 markup to curtail the regulatory overreach of the National Labor Relations Board (NLRB).

Joint Employer CRA

The Chamber strongly supports H.J.Res.98/S.J.Res.49, a joint resolution of disapproval under the Congressional Review Act (CRA) to nullify the NLRB's Final Rule on Joint-Employer Status.¹

The NLRB's final rule overturns a reasonable and well-balanced standard to determine when an employer is engaged in a joint employment relationship. The new, deeply flawed standard represents an unprecedented and unwarranted expansion of the Board's joint-employer doctrine beyond what the law allows.

This standard has the potential to treat virtually any common business relationship as an indicator of a joint employment relationship. In doing so, the new standard will expose businesses—especially small businesses—to potential liability for workers they do not actually employ and workplaces they do not actually manage. The NLRB's deeply destructive final rule will be expensive and frivolous, will cost jobs, and will slow wage growth.

H.R. 3400, Small Businesses before Bureaucrats Act

The Chamber also supports H.R. 3400, the "Small Businesses before Bureaucrats Act," which would update jurisdictional standards related to certain labor disputes by the NLRB.

Since 1958, the NLRB has maintained authority over any retail business whose annual revenue is more than \$500,000 and over non-retailers whose annual revenue is more than \$50,000. H.R. 3400 would update the NLRB's jurisdictional threshold, which has not changed in 65 years, by increasing it to \$5,000,000 for retail businesses and \$500,000 for non-retail businesses.

¹ *Standard for Determining Joint Employer Status*. 88 FR 73946 (October 27, 2023).

For small businesses that do not have an army of lawyers to react to the NLRB's increasingly aggressive pro-union agenda, H.R. 3400 would provide much-needed protection from bureaucratic overreach and return the NLRB's focus to Congress' original intention.

The Chamber thanks your Committee for considering these important measures, and we look forward to assisting you as they advance through the legislative process.

Sincerely

A handwritten signature in blue ink, appearing to read "Neil L. Bradley", with a large, stylized flourish at the end.

Neil L. Bradley
Executive Vice President, Chief Policy Officer,
and Head of Strategic Advocacy
U.S. Chamber of Commerce

cc: Members of the Committee on Education and the Workforce