WINTERGREEN COMMUNITY NEEDS EMERGENCY EXIT

(Mr. GOOD of Virginia asked and was given permission to address the House for 1 minute.)

Mr. GOOD of Virginia. Madam Speaker, I rise to support the ongoing efforts of the Wintergreen community to build an emergency exit road to keep their residents safe.

The Wintergreen community is located within the Blue Ridge National Park in Nelson County, Virginia, and is home to up to 10,000 residents at any given time. It is situated in a box canyon, but it only has one road that leads in or out.

For 20 years, the community has tried to work with the Park Service to construct an emergency exit but has been denied every time. The community is trying to fund and create a 400-foot emergency exit road to the Blue Ridge Parkway, which would be critical to saving lives in the event of a fire.

The Park Service continues to insist they do not have the authority to approve this action, so to remedy the situation, I am introducing the Blue Ridge Fire Safety Act to make it clear that the Park Service does have the authority to grant an emergency road construction permit.

Madam Speaker, I hope that common sense will prevail and prioritize the safety of this community.

REMEMBERING THE LIFE OF OFELIA VALDEZ-YEAGER

(Mr. TAKANO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAKANO. Madam Speaker, I rise today to remember the life of Ofelia Valdez-Yeager—a trailblazer for the Latino community in the Inland Empire.

She was a champion for all students, both in the classroom as a teacher and in her capacity as the first Latina to serve on the Riverside Unified School Board of Trustees.

As a founding member of LaNet, commonly referred to as the ''Latino network,'' she helped give a voice to the growing Latino population in Riverside.

Ofelia enriched our community and helped mobilize efforts that created the Cesar Chavez memorial and established The Cheech Marin Center for Chicano Art and Culture to downtown Riverside. I will miss her unwavering spirit and fierce advocacy dearly. My thoughts and prayers are with her family as they mourn the loss of a mother, wife, and grandmother.

RECOGNIZING MITCHELL WRIGHT

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Madam Speaker, I rise today to recognize Mitchell Wright, a social studies teacher at Watauga High School in North Carolina's Fifth District.

Recently, I nominated Mitchell for the United States Capitol Historical Society Civic Education Workshop, a competitive program that selects only 16 educators from across the Nation to participate.

Last week, he was selected as part of this cohort and will travel to the Rutherford B. Hayes Presidential Library and Museum in Fremont, Ohio, in the latter part of February.

There, these 16 educators will develop new lesson plans and a variety of instructional materials relating to the electoral college that they will be able to share with their students.

Madam Speaker, I congratulate Mitchell on his selection to this program, and I thank the U.S. Capitol Historical Society for their continued work in creating novel instructional workshops such as this.

UKRAINE AND ISRAEL AID

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Madam Speaker, it has been 687 days since Putin invaded Ukraine.

It has been 379 days since we secured our last aid package for the Ukrainians.

It has been 97 days since Hamas launched its brutal terror attack on Israel and took numerous Israelis and Americans hostage.

It has been 79 days since MIKE JOHNSON became speaker, 71 days since he made aid to Israel contingent on completely unrelated partisan IRS cuts, breaking not only 75 years of bipartisan precedent but also the principles of the One Subject at a Time Act, which he sponsored back in 2017.

Madam Speaker, how many days will it be until Congress stands up for freedom and democracy once again? The answer ought to be today.

Instead, we find ourselves mired in the chaos sown by a majority party that refuses to give us a clean vote.

It must stop or I fear democracy's days may be numbered.

Let us act and let us act now for the Ukrainians and for the Israelis, to oppose criminal invasions and terrorism.

RECOGNIZING UNIVERSITY OF MICHIGAN FOOTBALL TEAM

(Mrs. MCCLAIN asked and was given permission to address the House for 1 minute.)

Mrs. MCCLAIN. Madam Speaker, I rise today to recognize the University of Michigan football team for winning the national championship.

It is great to be a Michigan Wolverine.

Monday night, the Michigan football team completed their final test and stood atop as national champions.

Capping off a 15–0 season, team 144 will be enshrined as Big Ten champions, Rose Bowl champions, and now national champions.

Despite the accolades, this season for Michigan has been met with adversity on and off the field, but the players and the coaches and the team never wavered.

Michigan has a saying: ''Those who stay will be champions,'' and champions they have become.

These players are champions on and off the field. Team 144 is the epitome of what it means to be Michigan men and stand as champions because of it.

We are proud of these young men. We are so proud of Coach Harbaugh and his staff and all of those who are involved with this great program.

Madam Speaker, I congratulate Michigan. They are national champions. Go Blue.

RECOGNIZING RICHARD FRANCIS BRANI

(Ms. SPANBERGER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SPANBERGER. Madam Speaker, I rise today to recognize Staff Sergeant Richard Francis Brani, a U.S. Army veteran who served during World War II and was recently awarded the Bronze Star Medal for his gallantry during the Battle of the Bulge.

Nearly 80 years ago, Mr. Brani valiantly served in three campaigns in the European Theater, including on the Western Front, where he distinguished himself as part of the 84th Infantry Division ''Railsplitters.''

From the beaches of Normandy to the forests of the Ardennes, Mr. Brani and his regiment faced freezing temperatures, fierce enemy fire, and insurmountable odds as they warded off German forces. Amidst trials that tested their resolve, their bravery never wavered.

Last month, and at 100 years old, Mr. Brani was awarded the Bronze Star Medal for demonstrating extraordinary heroism during this critical turning point in World War II.

Mr. Brani's service is a reminder of the sacrifices made by an entire generation, the sacrifices that led to the freedoms we hold dear today.

On behalf of a grateful Nation, I stand before the United States House of Representatives to thank Staff Sergeant Richard Francis Brani for his devoted service to our extraordinary country.

□ 0915

PROVIDING FOR CONGRESSIONAL DISAPPROVAL UNDER THE RULE SUBMITTED BY THE NATIONAL LABOR RELATIONS BOARD RELATING TO ''STANDARD FOR DETERMINING JOINT EMPLOYER STATUS''

Ms. FOXX. Madam Speaker, pursuant to House Resolution 947, I call up 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'', and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mrs. KIM of California). Pursuant to House Resolution 947, the joint resolution is considered read.

The text of the joint resolution is as follows:

H. J. RES. 98

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress disapproves the rule submitted by the National Labor Relations Board relating to ''Standard for Determining Joint Employer Status'' (88 Fed. Reg. 73946 (October 27, 2023)), and such rule shall have no force or effect.

The SPEAKER pro tempore. The joint resolution shall be debatable for 1 hour equally divided and controlled by the chair and ranking minority member of the Committee on Education and the Workforce or their respective designees.

The gentlewoman from North Carolina (Ms. FOXX) and the gentleman from Virginia (Mr. SCOTT) each will control 30 minutes.

The Chair recognizes the gentlewoman from North Carolina (Ms. FOXX).

GENERAL LEAVE

Ms. FOXX. Madam 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 resolution under consideration.

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

There was no objection.

Ms. FOXX. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, House Republicans are coming to the rescue of small business owners once again. The House will soon vote on a bipartisan Congressional Review Act resolution to rescind President Biden's antifreedom, antigrowth joint employer rule.

Business-to-business relationships are fundamental to American commerce. At its most basic level, a joint employer standard should ensure that the entity calling the shots in the workplace is legally liable. That is why it is important to get this right.

Under the Trump National Labor Relations Board rule, it was right. The Trump NLRB made sure that clear criteria were met before an employer was deemed legally liable for an individual's employment conditions.

Critically, the Trump rule recognized that the ability of businesses to control their destinies is a pillar of the American Dream. It established a standard that enticed countless men and women to start and grow small businesses and employ millions of workers.

The Biden NLRB upended this easy-to-understand joint employer standard that promoted economic growth and job creation. Under the new joint employer rule, small business owners are going to be compelled to acquiesce to more Big Government regulation and union boss control.

Here is why: The traditional Trump rule stated that two or more businesses were considered joint employers under the National Labor Relations Act if they shared actual, direct, and immediate control over the essential terms and conditions of employment, including hiring, firing, discipline, supervision, and direction of employees. This predictable and clear standard ensured employers would not be saddled with collective bargaining obligations or with liability of a company they do not control.

Under the Biden NLRB rule, an employer now includes those who have only indirect or even potential control over employees' essential terms and conditions of employment. Like a rerun of a low-rated TV show, we have seen this story before.

While the Trump Board restored the commonsense, traditional joint employer standard, the Biden NLRB's rule largely revives an Obama-era standard. The Obama NLRB upended decades of precedent and broadly expanded the definition of joint employment. That means working families and small businesses are up against a confusing and damaging new rule from Biden's NLRB, which will sow confusion and destabilize the economy in a time when persistently high prices are crushing hardworking Americans.

The results from Obama's joint employer rule give us an eerie glimpse of what is to come. Franchise operational costs increased by $33 billion. The decision caused 376,000 lost job opportunities in the franchise sector alone. It increased NLRB unfair labor practice charges by 93 percent, imposing significant litigation costs on businesses, both large and small.

Special interests are hard at work attempting to sweep these facts and the failed historical record under the rug. The AFL–CIO purports that the rule will in no way threaten or disrupt franchise arrangements or staffing firms. Big Labor set the line, and the Biden administration took the bait—hook, line, and sinker.

Moreover, this is not the only myth Big Labor is spreading about the resolution. Let me be clear. This resolution does nothing to restrict union activity. It does not alter the rights afforded to workers under the National Labor Relations Act. What it does is ensure the appropriate parties meet at the bargaining table to resolve labor disputes.

While the Biden NLRB's joint employer rule takes the side of the special interest masters, House Republicans have heard the pleas and are taking the side of workers, small businesses, and the American entrepreneurial spirit.

Congress must stand with franchisees, small and large business owners, and millions of workers by voting with a bipartisan mandate to rescind the Biden NLRB's joint employer rule.

Madam Speaker, I reserve the balance of my time.

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

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

Through their unions, workers should be able to negotiate for higher pay, better benefits, and safer workplaces. However, that is not the case for millions of Americans, including janitors, housekeepers, cooks, and many others who are employed through subcontracts or temporary agencies.

The rise of what is called ''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.

For example, if employees of a subcontractor were to unionize, the subcontractor could refuse to bargain over pay, hours, workplace safety, or other issues because its contract with the prime contractor essentially sets the wages for the employees. Whoever is setting the wages ought to be the one at the bargaining table.

If the workplace employer is essentially setting the wages, but you have to negotiate with the temp agency, and they say, ''That is all we can pay, so talk to somebody else,'' we need the somebody else at the table to be bargaining.

Likewise, a temp agency may be restrained on what it can pay because of the contract with the owner of the workplace.

Additionally, by evading bargaining obligations, the prime contractor who is actually setting the wages can shift liability for an unfair labor practice onto the subcontractor or the temp agency.

The NLRB rule fixes this problem by ensuring workers can negotiate with all entities controlling their working conditions. This protects small businesses from being held liable for labor violations that are the result of other employers' actions.

By repealing the NLRB's rule, 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.

We should not go backward. The Biden-Harris administration's joint

employer rule empowers workers and protects small businesses.

My colleagues have just claimed that there is a problem with franchisees and the franchising model. These claims are unfounded, as there is no credible evidence showing that the rule would adversely affect the franchise model.

In fact, if a problem arises, a strong joint employer standard will protect franchisees by ensuring the franchisors don't control the franchisees' labor relations and then leave the franchisees on the hook for the liabilities.

I want to highlight that the American Association of Franchisees and Dealers wrote in support of both the Protecting the Right to Organize Act—that is, the PRO Act—joint employer standard and the Biden-Harris joint employer rule that we are talking about today.

It is also important to point out that the NLRB has never found a franchisor to be a joint employer of a franchisee's employees.

The joint employer rule reflects the best interests of the American people and our economy.

Madam Speaker, I hoped that we would be standing with the workers and small business owners and not repeal a rule that protects them. I oppose the resolution, and I reserve the balance of my time.

Ms. FOXX. Madam Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. GOOD).

Mr. GOOD of Virginia. Madam Speaker, I rise today in support of H.J. Res. 98, a resolution brought under the Congressional Review Act that will nullify the new joint employer rule finalized by the Biden administration's activist National Labor Relations Board.

The joint employer rule is a continuation of anti-employer, antiworker, pro-union activism spewing out of Biden's NLRB.

Originally created as a neutral Federal agency to safeguard employee rights, the NLRB has destroyed its reputation under the leadership of radical leftist General Counsel Jennifer Abruzzo.

If we fail to pass the resolution today and this new rule goes into effect, it will rescind the direct and immediate control standard and replace it with the Biden administration's indirect, reserved control standard.

These rules go to the heart of what it means to control your own business. The Biden administration threatens the existence of the franchise model used by so many great businesses across our Nation.

Years ago, when President Obama's NLRB tried to advance a similar rule, the International Franchise Association conducted a study on its impact. Research showed the Obama standard would have increased operational costs for franchisees collectively by as much as $33 billion annually and led to the loss of 376,000 jobs.

Under the rule, something as simple as a franchisor giving a franchisee a company handbook could be interpreted as exercising indirect control, and this opens up a floodgate of questions and unnecessarily creates a problem for the current structure.

Today, businesses are fighting to survive the consequences of Bidenomics. They are suffering high inflation, low workforce participation, high interest rates, and more. If you ask any franchisor, the last thing they would say they need is more government bureaucrats telling them how to run their businesses.

We must protect the model that is currently working for businesses and eliminate the threat of this new rule, and I urge my colleagues to vote for H.J. Res. 98.

Mr. SCOTT of Virginia. Madam Speaker, I yield 2 minutes to the gentlewoman from Oregon (Ms. BONAMICI), who is a senior member of our committee and the ranking member of the Subcommittee on Early Childhood, Elementary, and Secondary Education.

□ 0930

Ms. BONAMICI. Madam Speaker, I rise today in support of workers and franchisees and in opposition to this harmful resolution.

The joint resolution we are debating today would reverse a rule of the National Labor Relations Board that clarifies who or what is a joint employer. Under this rule, employers can no longer use subcontractors or a staffing or temporary agencies to block the opportunity for hardworking Americans to bargain for fair wages or safer workplaces.

The Biden administration's joint employer rule will help workers and grow the middle class by restoring the NLRB's ability to consider an employer's control over an employee when determining joint employer status. This is not new. It was the law for decades.

Also, I want to push back on the arguments that some of my colleagues continue to make that a strong joint employer rule threatens the franchise model. It does not.

As a lawyer who formerly represented franchisees, I know the franchise model, and I know how it works. A franchisor does not have an employer relationship with the franchisee's employees. Additionally, franchisors do not determine the terms and conditions of their franchisee's employees. It is the franchisee who runs the business and controls the employees. That is freedom.

In fact, the rule actually helps franchisees, because it discourages franchisors from trying to micromanage the franchisee's employees. In fact, as Ranking Member SCOTT has made clear, the NLRB has never found a franchisor to be a joint employer.

Now, the chair mentioned this increase in expenses. Well, they certainly are not the expenses of the franchisees. I would expect that a significant amount of that money has been lobbying against this rule and spreading misinformation about how the sky is falling for franchisees when, I repeat, there has never been a franchisor who has been found to be a joint employer.

The rule works. Let's stand with workers and defeat this joint resolution.

For these reasons, I oppose H.J. Res. 98, and I encourage all of my colleagues to vote ''no.''

Mr. SCOTT of Virginia. Madam Speaker, I reserve the balance of my time.

Ms. FOXX. Madam Speaker, I yield 1 minute to the gentleman from Texas (Mr. WILLIAMS), the distinguished chair of the Small Business Committee.

Mr. WILLIAMS of Texas. I thank the gentlewoman for yielding time.

Madam Speaker, I rise today in opposition to the National Labor Relations Board joint employer rule that will be disastrous for small businesses across the country, and I also am a franchisee.

The NLRB is attempting to adopt an overly broad new definition of a joint employer that will greatly increase the number of entities that are subject to costly new Department of Labor requirements.

Last fall, the Committee on Small Business held a hearing to examine the disastrous impact of the regulation as well as many others coming out of the Department of Labor.

We heard directly from job creators on how the new joint employer rule will prevent businesses from looking for growth opportunities because of the legal uncertainty caused by this rule.

If we continue to punish the businesses who provide over half the workforce and half the payroll, our economy is going to suffer. In a time where inflation remains stubbornly high, businesses cannot find qualified workers to hire, and supply chains remain fragile, we should not be adding another confusing regulation to the list of their troubles.

I am glad to see the CRA come to the floor today so we can provide regulatory relief to businesses already dealing with significant employee economic headwinds.

I urge my colleagues to support H.J. Res. 98.

In God we trust.

Ms. FOXX. Madam Speaker, I reserve the balance of my time.

Mr. SCOTT of Virginia. Madam Speaker, I yield 4 minutes to the gentleman from California (Mr. TAKANO), a senior of our committee, and the ranking member of the Veterans' Affairs Committee.

Mr. TAKANO. Madam Speaker, I rise in strong opposition to this resolution.

The National Labor Relations Board, under President Biden, issued a final rule this past October that restores the Board's ability to consider the extent to which an employer controls the terms and conditions of someone's employment. So what does this mean?

Well, the Biden NLRB rule prevents employers from skirting accountability for complying with workplace

laws. Under the Trump administration, their NLRB 2020 rule severely hampered the American worker's ability to hold employers accountable.

I reject the characterization by the chairwoman that the Trump administration rule was pro-freedom. There is nothing pro-freedom about the Trump administration rule, except for the freedom to steal wages, to exact unfair labor practices, and other violations. That is a perversion of the word ''freedom''.

A trend called fissured work has become commonplace. What does fissured work mean? Fissured work is when a company adopts a dynamic of contracting and subcontracting. Instead of hiring the workers directly, they subcontract it out. That is how they avoid responsibility for being fair to the workers.

A prime example of this is temping. Today, roughly 3.1 million Americans are employed by a temping agency. These temporary work arrangements are characterized by their short duration, and employment can range from just a handful of days to months.

So let's say a company needs to hire a front-desk receptionist and enlists the help of a staffing agency. For an individual seeking a job opportunity who may not be able to secure full-time, long-term employment, maybe as quickly as he or she would like, a temporary staffing agency may seem very enticing.

If hired, the receptionist sent out by this staffing agency would essentially be performing work on behalf of a client company that directs the employee's work but does not receive a check signed by that client company, but, rather, the staffing agency writes the check.

This common practice is one for companies to pay employees less for work than a traditional, full-time employee would receive. In addition, many times these employees have hostile or unsafe workplaces.

Now, these fissured work arrangements at temp agencies often result in a lack of clarity regarding employer responsibilities and may become challenging for workers who are interested in organizing a union to negotiate collectively or hold employers accountable for labor standards.

For that receptionist who wants to negotiate his or her pay, the conversation with the company proves difficult to have. Who do you negotiate with: the temp agency or the company?

Fissured work is unfortunately rampant, and it is critical companies are not able to evade bargaining and responsibility of workers. This is the problem that the Biden NLRB joint employer rule seeks to fix.

If a company maintains its right to control how much a worker earns and how many hours they work a week and whether they can organize, then it also must maintain its responsibility for complying with the laws that protect workers. This is common sense. This rule helps workers and protects small businesses that follow the rules.

This rule would upend the dynamic of allowing big companies to shield themselves from labor negotiations. Companies that engage in fissured employee arrangements would no longer be able to evade such responsibilities.

All companies should be held accountable irrespective of how many workers or geographically where employers are stationed.

The final rule is expected to take effect February 2024.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SCOTT of Virginia. Madam Speaker, I yield an additional 30 seconds to the gentleman from California.

Mr. TAKANO. Madam Speaker, I wish that my Republican colleagues were more focused on helping and empowering workers.

I urge opposition to the joint resolution.

Mr. SCOTT of Virginia. Madam Speaker, I reserve the balance of my time.

Ms. FOXX. Madam Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. HERN), chair of the Republican Study Committee.

Mr. HERN. Madam Speaker, because of the successes that I have had in life, not many people know that my life began very differently.

My family was dependent on food stamps for most of my youth. My stepdad never worked, and my siblings and I paid the price for it. I knew from a young age that I would not let that be my life. From the moment I could start working, I did whatever it took to earn financial security—hog farming, welding, computer programming, the list goes on.

If it weren't for the McDonald's franchisee program, I wouldn't be here today. After 11 years of working in the restaurants, I was able to work my way into the franchisee program and purchase my first franchise location. I was able to build a successful company with over 20 locations and thousands of employees.

I have lived a truly American story, and my mission in life is to help every child who grew up like me—wondering where their next meal would come from, unsure if the lights would be on when they came home from school. I want those kids to know that our country is a place of opportunity and a place of hope for those who will work for it.

Today, we are here to provide congressional disapproval of a rule that would completely destroy the franchise model that gave me the opportunity to be successful.

I thank Congressman JAMES for introducing the CRA to shed light on how harmful the National Labor Standards Board rule is to small businesses and especially the franchise model. This new rule would have grave consequences on small businesses and the franchise model.

Have we not learned from our history? Under the Obama administration, the joint employer rule was expanded, and the data shows that franchises lost $33.3 billion each year, 376,000 jobs were lost, and losses increased by 93 percent.

We have already seen this administration's spending habits wreak havoc on Americans in the form of inflation. We cannot allow the Biden administration to move forward with this rule that will have devastating effects on our economy.

We should learn from the mistake the Obama administration made and reject this new joint rule.

Madam Speaker, I urge my friends on both sides of the aisle to support H.J. Res. 98.

Ms. FOXX. Madam Speaker, I reserve the balance of my time.

Mr. SCOTT of Virginia. Madam Speaker, I yield 3 minutes to the gentleman from California (Mr. DESAULNIER), the ranking member of the Subcommittee on Health, Employment, Labor, and Pensions.

Mr. DESAULNIER. Madam Speaker, I thank the gentleman for yielding and say hello to the Chairwoman.

When workers come together to bargain collectively for better wages, hours, and working conditions, workers, families, and our entire economy succeeds. However, they can only negotiate for these things if, in keeping with the principles of the National Labor Relations Act, all parties with power to control their employment are required to be at the table.

The Biden administration's joint employer rule makes sure that that is possible, and we should be supporting it, not trying to undo it.

If someone is hired by a subcontractor and that subcontractor has no ability to change the pay and hours of its employees because they are predetermined by the prime contractor, it might understandably refuse to bargain over those issues. Without the prime contractor at the table, these workers are denied their right to negotiate over these fundamental parts of their jobs.

The Trump-era joint employer rule allowed companies to control the workplace like an employer but dodge the legal responsibilities of one. The Biden administration's updated rule will set the law back on track, ensuring that if a company controls a worker's essential terms and conditions of employment they are accountable to answering to those workers directly.

As a former union member and the current ranking Democrat on the House Health, Employment, Labor, and Pensions Subcommittee of the Education and the Workforce Committee and a member of the Labor Caucus, I have seen firsthand that labor unions can be key to improving working conditions, pay, and a worker's voice.

When workers succeed, America succeeds.

I am also a former small business owner, and I appreciate that, as part of

its due diligence when putting this updated rule together, the NLRB did an analysis and concluded that it would not have an undue economic impact on small businesses.

I encourage my colleagues to vote against this resolution which would harm workers by overturning the Biden administration's joint employer rule.

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

Ms. FOXX. Madam Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. JAMES), and the prime sponsor of the resolution.

Mr. JAMES. Madam Speaker, I rise today in support of my resolution, H.J. Res. 98, to provide for congressional disapproval of the NLRB's recent joint employer rule.

I first thank the esteemed Member from North Carolina, Chairwoman FOXX, and her staff for working with me and my staff to get this joint resolution to the floor and, hopefully, through to the Senate.

I have been here for about a year, and it is readily apparent to me that too many people in this town are making rules that they will never live by in an area where they have never had to survive in the business world. Additionally, too many of my colleagues seem to be convinced that small business is the enemy and Big Government is here to save them.

Plainly put, this joint employer rule is part of the Biden administration's antifreedom, antigrowth, and antibusiness agenda that is gutting the American Dream.

Madam Speaker, the American people don't want Washington telling them how to start or manage a business in this country.

Don't take it from me. Franchise owners in my district have conveyed to me that they are choosing retirement over dealing with this harmful policy. They want the chance to create a better life for their families and their employees' families and not be controlled by out-of-control bureaucrats at the NLRB.

We already have the right to collectively bargain in this country, but this rule goes too far. This is the most glaring evidence yet that capitalism and choice are threats to this administration's socialist America last agenda.

When this regulation was enacted under the Obama administration, it cost franchise businesses $33.3 billion per year. According to the International Franchise Association, around 26 percent of franchises are owned by people of color compared with 17 percent of independent businesses generally.

□ 0945

Madam Speaker, I fear this harmful rule will lead to job losses, increases in the cost of living, and for Americans already suffering, fewer American Dreams being realized, as well.

It burns me up when I hear politicians talk about creating jobs. Politicians can't create jobs, but they sure can kill them. That is what this regulation does.

Bureaucrats don't create jobs; businesses create jobs. Republicans aim to make policy that will not only result in more jobs but more job creators.

These job creators, these entrepreneurs, these franchisees, and these independent contractors create good-paying jobs and give people opportunities to succeed. Overturning this joint employer rule is just the first step in the right direction.

I am the walking result of the American Dream. My father started our family business with one truck, one trailer, and no excuses. He worked 25 hours a day and 8 days a week with my mother by his side. When he handed that business down, my brother and I, with a wonderful team and the grace of God, were helped to grow it to higher heights. We put more effort into it, and that is the story of how this Nation grows and becomes more successful. Nonetheless, we can't allow this story to end.

Madam Speaker, I implore my colleagues to remember that small business on Main Street in their districts when they cast their vote today because the small business on Main Street will certainly remember them in November.

For these reasons and more, Madam Speaker, I urge a ''yes'' vote on H.J. Res. 98.

Mr. SCOTT of Virginia. Madam Speaker, I yield 2 minutes to the gentlewoman from Oregon (Ms. HOYLE).

Ms. HOYLE of Oregon. Madam Speaker, today I rise in strong opposition to H.J. Res. 98 which would repeal the National Labor Relations Board joint employer standard.

Under President Biden, this rule was issued to protect workers' rights. Unfortunately, House Republicans want to repeal this strong standard. Today, I have heard a lot of misleading claims about this joint employer standard.

Simply put, this issue is about whether or not employers have to come to the bargaining table where the employer controls the means and manner of the workers' employment.

As a member of the Congressional Labor Caucus and someone who has spent 25 years in the private sector putting food on the table for my family, I believe that when workers come to bargain over their wages and working conditions, then those employers who do control the means and manner of workers' employment—and that is a standard by which we determine whether someone is a direct employee or an independent contractor—should be at the bargaining table as required by law.

When workers do better, employers do better, and our country does better.

This is exactly what the Biden administration's joint employer rule does.

What it doesn't do is impact the ability to utilize independent contractors when appropriate, and, as has been mentioned today, no franchisee has ever been categorized as a joint employer. This is more misinformation used to undermine the ability of workers to organize and bargain for better wages, hours, and working conditions.

This strong standard overturns the Trump administration's rule, and it cracks down on corporations that outsource jobs and use independent contractors to walk away from their duties as an employer creating an unlevel playing field and unfair competition for those employers who are willing to provide fair wages, hours, and safe working conditions for their workers as per the letter of the law.

In seeking to overturn the NLRB's new and stronger joint employer standard, House Republicans are working to help bad employers avoid their responsibility to employees and are undermining workers across this country.

Madam Speaker, I urge my colleagues to vote against this antiworker resolution.

Ms. FOXX. Madam Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. OBERNOLTE).

Mr. OBERNOLTE. Madam Speaker, I rise in strong support of this joint resolution which would overturn a completely nonsensical ruling by the National Labor Relations Board.

The NLRB is seeking to expand the definition of an employer to include what they call joint employers. That is an employer who exerts indirect control or even potential control over an employee.

Madam Speaker, it has been said that those who do not honor the mistakes of the past are doomed to repeat them, and we are about to make the same mistake that we made almost 10 years ago when the NLRB took this exact same action.

What happened?

It raised costs for small businesses by over $33 billion and resulted in the loss of nearly 400,000 jobs.

Madam Speaker, that will happen again if this ruling is allowed to stand. It is completely appropriate that Congress is taking this action under the Congressional Review Act because this is a decision that has major consequences for employers across our country, and, yet, it has been made by a set of unelected bureaucrats.

Madam Speaker, under our Constitution, the power to regulate interstate commerce resides here in this Chamber in this building and not with an unelected executive branch agency.

Madam Speaker, this commonsense resolution would overturn that ruling, returning that power not only to Congress but to small businesses across our country, and I urge its adoption.

Mr. SCOTT of Virginia. Madam Speaker, may I inquire how much time is remaining on both sides.

The SPEAKER pro tempore. The gentleman from Virginia has 15½ minutes

remaining. The gentlewoman from North Carolina has 14½ minutes remaining.

Mr. SCOTT of Virginia. Madam Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. SORENSEN).

Mr. SORENSEN. Madam Speaker, I rise today in opposition to H.J. Res. 98.

Last year, the administration took an important step to protect workers' rights by issuing an updated joint employer rule. Unfortunately, House Republicans are now trying to reverse the strong standard.

My colleagues across the aisle are making misleading claims today about this joint employer standard, arguing incorrectly about the impact on small business franchises.

Now, let me be clear. The joint employer issue is simply about whether or not an employer is obligated to come to the bargaining table.

I have heard from so many working families across central and northwestern Illinois who feel as if they are left behind and as if their government does not stand for them as they work paycheck to paycheck trying to do the right thing for themselves and their families.

All the while, big corporations automate jobs and misclassify workers all to save a quick buck while reporting record profits and forgetting whose labor got them to their positions of success in the first place.

As a member of the Congressional Labor Caucus, I believe that when workers come together to bargain for fair wages, for good benefits, and for safe workplaces, then every entity that has control over these conditions should be at the table, and it is required by law.

That is exactly what the Biden administration's joint employer rule does. The strong standard overturns the previous administration's rule which allowed corporations to easily outsource jobs so they could evade responsibility and undermine organized labor.

We cannot allow House Republicans to undermine workers in this country by overturning the National Labor Relations Board's joint employer standard.

To the hardworking people in my district, let me be clear. As their Member in Congress, I will always stand on the side of workers and fight for their protections.

Madam Speaker, I urge my colleagues to vote against this resolution.

Ms. FOXX. Madam Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. VAN DUYNE).

Ms. VAN DUYNE. Madam Speaker, I rise today in support of this joint resolution to rescind this detrimental and job-killing regulation from the Biden administration. This final rule revives the Obama-era joint employer standard and leaves companies liable for employees whom they don't oversee or directly manage.

As co-chair of the Congressional Franchise Caucus and chair of the Committee on Small Business' Oversight Subcommittee, I have heard from countless franchise businesses about this rule. Overwhelmingly, they would suffer drastically. They would lose out on income, opportunity, and autonomy over their business.

The cost is not small. A very similar 2015 standard cost the franchising sector over $33 billion per year. It resulted in nearly 400,000 lost job opportunities, and it practically doubled litigation against franchises.

My home State of Texas continues to lead the Nation in job growth and is the fastest growing State for franchise establishments. This misguided policy would hurt these job creators who want nothing more than to provide for their families and offer job opportunities to our communities.

Madam Speaker, I urge my colleagues to support this resolution to push back on the Biden administration's vast overreach and give our small businesses the chance to survive and to thrive.

Mr. SCOTT of Virginia. Madam Speaker, I yield 3 minutes to the gentleman from Texas (Mr. CASAR).

Mr. CASAR. Madam Speaker, I rise today in opposition to this Republican proposal because across our country and across my home State of Texas, working families are struggling to make ends meet while big corporations boast record-breaking profits.

We should all be celebrating this Biden-era NLRB rule to make sure that those same big companies have to bargain for better wages and better benefits with their workers and that those big companies can't throw contractors in the way in order to evade that baseline responsibility.

Nonetheless, unsurprisingly, my colleagues on the other side of the aisle are running to the rescue of those same big corporations and their record-breaking profits. The Republican majority wants to help those corporations be able to deny workers the benefits, the higher wages, the overtime, and the healthcare they deserve.

The most ironic thing that I have heard today from the Republicans who are for this resolution is they keep saying they want to defend small businesses. However, in fact, the Republican proposal today will allow big corporations to throw a small contractor in between themselves and their employees so that they can keep on underpaying their staff and provide fewer benefits than those workers deserve.

I will give you an example from my district, Madam Speaker. In my district, my constituents run YouTube Music which is used by millions of people across the world. YouTube Music, of course, is owned by YouTube and by Google. However, they don't get a check from Google. They get a check from a contractor that otherwise wouldn't exist except for the fact that they are there to essentially pass the check along to workers and shield Google and YouTube from their responsibility to their workers.

That is why these folks who are helping make Google $60 billion in profits just last year make as little as $19 an hour. This Republican proposal is to shield enormous corporations like Google from their responsibility to make sure that the workers who create their profits actually get to share in American prosperity.

Workers have the right to bargain for fair wages and working conditions with every company that controls their terms and conditions of employment, and that is why we should defend this Biden-era NLRB rule to protect workers' rights to bargain.

Workers across the United States are saying ''yes'' to higher wages, they are saying ''yes'' to better healthcare, and they are saying ''yes'' to collective bargaining. It is time for Congress to catch up.

Ms. FOXX. Madam Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. WALBERG).

Mr. WALBERG. Madam Speaker, I thank the gentlewoman for yielding.

Madam Speaker, I strongly support H.J. Res. 98 to overturn the Biden administration's joint employer rule which would directly harm employees across this Nation—employees who can become and do become entrepreneurs, franchise owners, and small businesspeople because of their opportunity.

This misguided joint employer rule is a classic case of solving a problem that doesn't exist, and, in the process, it creates unnecessary barriers to success.

Madam Speaker, we have been here before. In 2015, the Obama NLRB implemented the Browning-Ferris decision—I remember it well—which rewrote the joint employment standard with disastrous results. To say otherwise denies the truth.

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It raised franchise operational costs by $33 billion and caused 376,000 job losses. It increased NLRB unfair labor practice charges by 93 percent, imposing significant litigation costs on businesses, both large and small.

Despite the historical evidence that expanding the definition of joint employment harms economic growth and job creation, the Biden NLRB has decided to finalize a substantially similar rule anyway.

Michigan is home to over 23,000 franchise locations, employing approximately 248,000 people. However, as a result of this new regulatory burden, workers and small businesses in Michigan and across the country are at risk of losing jobs and opportunities to pursue their own American Dream.

Madam Speaker, I urge my colleagues to pass H.J. Res. 98 so we can return to a commonsense standard that workers and local employers have relied on for decades and promote success.

Mr. SCOTT of Virginia. Madam Speaker, I include in the RECORD three letters in opposition to H.J. Res. 98. The first is signed by the AFL–CIO, SEIU, and Teamsters. The second is signed by the United Steelworkers. The third is signed by a diverse group of organizations, including the National Organization for Women, the National Partnership for Women and Families, The Leadership Conference on Civil and Human Rights, and many more.

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.

Sincerely,

AFL–CIO,
America's Unions.

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.

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 nonstatutory 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.

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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. VIRGINIA 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. Madam Speaker, I reserve the balance of my time.

Ms. FOXX. Madam Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. ALLEN).

Mr. ALLEN. Madam Speaker, I thank the chairwoman for yielding the time.

Madam Speaker, I rise in support of H.J. Res. 98, which would nullify the

Biden administration's expanded joint employer standard, impacting franchises and small businesses across the Nation.

In October, President Biden's radical National Labor Relations Board appointees circumvented Congress to reimpose a broad joint employer standard that threatens the flexibility of businessowners, upends the franchise model as we know it, and negatively impacts the U.S. economy and workers.

We know and appreciate our local franchises and want to make sure they have the flexibility to operate efficiently and inspire future entrepreneurs. However, in a report released by the International Franchise Association, two-thirds of franchises expected the new standard to raise barriers to entry into franchising.

As a small business man, I know that in today's evolving economy, certainty in the workplace is a key ingredient to success for employers, job creators, and small businesses nationwide. Unfortunately, the Federal Government tends to get in the way, muddying the waters and blurring the lines in already difficult economic conditions.

Having started a small business, I know all too well how additional hurdles and barriers to entrepreneurship can stifle innovation. In fact, what we have in this administration is a war on small businesses.

At a time when workers and families are struggling to keep up with the inflationary reality of Bidenomics, it is appalling that this administration is now saddling entrepreneurs with further roadblocks.

Republicans will continue to promote policies that foster the entrepreneurial spirit and the small business community.

Madam Speaker, I urge support of H.J. Res. 98.

Mr. SCOTT of Virginia. Madam Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE. Madam Speaker, I want to answer the question: Can't we all get along?

There is no doubt of Democrats' promotion and support of small businesses. They are in my district. We work every day to make sure they have access to credit and that they are able to pay their workers and benefit from programs like the PPP during COVID.

I don't know how many small businesses stop me to say we were a lifeline, the Democrats who passed the American Rescue Act and many other ways of helping.

Today, we rise to oppose what is not bringing people together; it is dividing people.

H.J. Res. 98 is another extreme attack on workers, and it undercuts the NLRB's ability to address workplace conditions in a fair and equitable manner. As we know, on October 27, 2023, the NLRB published a final rule addressing the standard for determining joint employer status. It is important to highlight the following facts in support of this rule.

The rule is not to be against businesses, small businesses, or workers. It is, in fact, to be able to ensure good quality of work. Employees need to be able to collectively bargain with both joint employers to ensure the parties calling the shots are at the table.

This requirement is particularly important for employees of subcontractors and staffing agencies, such as janitors, housekeepers, cooks, and many others. They work on behalf of a company that directs their work but does not sign their paycheck.

I can assure you this can be a win-win situation, a good quality of life for our employees, great income for our small businesses, and a reasonable response to people's hard work.

Mr. Speaker, I rise to oppose H.J. Res. 98 because I stand for small businesses and for the workers. That is what Democrats do.

Mr. Speaker, I rise today in strong opposition to H.J. Res. 98, a joint resolution to disapprove the National Labor Relations Board's rule relating to a ''Standard for Determining Joint Employer Status''.

H.J. Res. 98 is yet another extreme attack on workers and undercuts the National Labor Relations Board's (NLRB) ability to address workplace conditions in a fair and equitable manner.

As we know, on October 27, 2023, the NLRB published a final rule addressing the Standard for Determining Joint-Employer Status.

It is important to highlight the following facts in support of this final 2023 rule:

The 2023 rule establishes that, under the National Labor Relations Act, two or more entities may be considered joint employers of a group of employees if each entity has an employment relationship with the employees, and if the entities share or codetermine one or more of the employees' essential terms and conditions of employment.

This 2023 rule rescinds and replaces the 2020 final rule that was promulgated by the prior Board and which took effect on April 27, 2020.

The 2023 rule more faithfully grounds the joint-employer standard in established common law agency principles.

In particular, the 2023 rule considers the alleged joint employers' authority to control essential terms and conditions of employment, whether or not such control is exercised, and without regard to whether any such exercise of control is direct or indirect.

The common law clearly recognizes that reserved control and indirect control are relevant to the analysis.

And including reserved control is important to account for situations in which an alleged joint employer maintains authority to control essential terms and conditions of employment but has not yet exercised such control.

The reality is that an entity holding such control may step in at any moment to affect essential terms.

Indeed, even when the entity remains on the sidelines, it may cast a shadow over the other employer's decision-making with respect to such terms.

By contrast, the 2020 rule made it easier for actual joint employers to avoid a finding of joint-employer status because it set a higher threshold of ''substantial direct and immediate control'' over essential terms of conditions of employment, which has no foundation in common law.

In the 2023 rule, the joint-employer standard is only implicated if an entity employs the workers at issue and has authority to control at least one of these terms or conditions. Authority over other matters is not sufficient.

With passage of H.J. Res. 98, my colleagues across the aisle are now seeking to invalidate this 2023 rule that replaces the Trump-era regulation in the 2020 rule that was purposefully crafted to restrict workers' rights and undermine their legitimate organizing efforts.

Thus, this resolution seeks to invalidate the 2023 rule and quite simply weaken essential labor protections for working people across the economy.

We cannot roll back necessary protections for our American workers.

We must acknowledge the following harms that would result from the passage of H.J. Res. 98, because it would do the following:

Undermine workers and their collective bargaining. This disapproval resolution would prevent workers from comprehensive collective bargaining with all entities that have control over their employment;

Prohibit employer accountability. Employers should not be able to hide behind subcontractors, staffing agencies or temporary placement services when failing to provide fair wages and safe working conditions; and

Backtrack to Trump's regressive joint employer standard. The new 2023 Joint Employer standard is based on common-law agency principles. However, a disapproval resolution will restore the previous version of this standard issued by the Trump Administration.

Yes, H.J. Res. 98 undermines workers and their collective bargaining.

The National Labor Relations Board finalized a new Standard for Determining Joint-Employer Status that established that two or more entities may be considered joint employers if each has an employment relationship with the employees and has influence over the essential terms and conditions of employment.

Once deemed a joint employer, workers would be able to negotiate with all parties that hold influence over their employment.

With this CRA, House Republicans are undermining workers as they collectively bargain for higher wages, better benefits and safer working conditions.

This Republican-led CRA prohibits employer accountability.

Many employers have shielded themselves from accountability by using subcontractors, staffing agencies or temporary agencies. This new Joint Employer standard will ensure that any company with control over employees is responsible for those employees.

Temporary employment increased by almost 63 percent between April 2020

and July 2022, rapidly outpacing the growth of overall employment.

This has serious implications for workers potentially subject to subpar wages, training and work conditions found in staffing agencies when compared to direct-hire counterparts.

If H.J. Res. 98 were to become law, it would revoke the new standard and return to the previous version issued under the Trump Administration which enabled companies to more easily evade a joint-employer status and had no foundation in common law.

We must not allow extreme agendas to sabotage the tireless work of the National Labor Relations Board to safeguard workers' rights and address unfair labor conditions.

Workers have the right to bargain for fair wages and working conditions with every company that directly or indirectly controls their terms and conditions of employment.

Too often, companies deny workers this right by hiding behind subcontractors, staffing agencies, and temporary agencies.

Reversing this rulemaking will prevent workers from exercising their right to bargain for higher wages, better benefits, and safer working conditions.

Simply put, this legislation would mean lower wages for working families. This is beyond unacceptable and must be rejected.

I therefore urge my colleagues to oppose H.J. Res. 98, a joint resolution to disapprove the National Labor Relations Board's rule relating to a ''Standard for Determining Joint Employer Status''.

Ms. FOXX. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I include in the RECORD a letter from the National Asian/Pacific Islander American Chamber of Commerce and Entrepreneurship, U.S. Black Chambers, and U.S. Hispanic Chamber of Commerce supporting H.J. Res. 98.

JANUARY 3, 2024.

DEAR MEMBER OF CONGRESS: On behalf of the undersigned organizations representing millions of minority-owned businesses across the United States, we write in support of the joint Congressional Review Act resolution concerning the National Labor Relations Board's (NLRB) joint-employer rule.

As discussed below, we support this bipartisan measure because of the opportunities it represents to bridge the racial wealth gap through entrepreneurship and fair competition. While our organizations agree with the aim of the National Labor Relations Act and the mission of the NLRB, this rule represents a broader need to modernize our laws for the diverse economy of the 21st century.

On October 26, 2023, the NLRB released a final rule setting forth a new standard for joint employer status under the National Labor Relations Act (NLRA). This rule would have a concerning impact on all small businesses, contractors, and franchisees around the country who could be held liable for potential NLRA violations for employees that they do not directly control, just by the virtue of entering a standard business-to-business contract.

We write you today, however, because we believe this rule could particularly impact minority-owned small businesses and franchisees that rely on these contracts to sustain and grow their businesses. The rule will take effect on February 26, 2024, unless Congress acts.

The franchise model has been a driver for minority entrepreneurship and job creation, by allowing budding entrepreneurs to partner with well-known brands and bolster local ownership of Main Street businesses around the country. It has also been particularly successful on ramping first- and second-generation immigrants into business ownership. We believe that the unintended consequences of this rule could threaten the entire franchise modal. It is our experience that when business models are transformed—for better or worse—the minority community, often under-capitalized, shoulders a disproportionate burden of the immediate harm. We are very concerned that what will remain of the franchise model could undo progress toward diversity and inclusion in this major sector of the economy.

This is particularly harmful at a time when minority entrepreneurs are just beginning to reap the benefits of this model. A recent study found that minority entrepreneurs are more likely to own franchised businesses as opposed to non-franchised businesses. The franchise model can be a helpful tool to encourage higher rates of entrepreneurship among women, minorities, and other underrepresented groups. Below are some of the key findings:

Nearly one-third (32%) of survey respondents said they would not own a business without franchising. Women and other first-time businessowners were even more likely to consider the franchise opportunity as critical to their ability to launch a small business.

Nearly one-third (26%) of franchises are owned by minorities, compared with 17% of independent businesses.

On average, Black-owned franchises earn 2.2 times more than Black-owned independent businesses; Hispanic-owned franchises earn 1.6 times more than Hispanic-owned independent businesses; and Asian-owned franchises earn 1.4 times more than Asian-owned independent businesses.

Beyond the concerns of the minority franchisee community that we represent, we also believe this rule could harm minority business success subcontracting to large prime contractors. Subcontracting is an important pathway for businesses that are just starting—which in recent years are more likely to be owned by minorities and women. This rule similarly threatens the relationship between subcontractors and their prime partners, undoing the important work that has already been done to diversify our supply chains.

For these reasons, we ask you to support the Congressional Review Act joint resolution of disapproval (H.J. Res. 98/S.J. Res. 49) to undo the NLRB's final rule on joint employer status. We must all collectively then ensure that policies that support a modern, diverse economy are at the front of the legislative calendar in the new year.

Sincerely,

NATIONAL ASIAN/PACIFIC ISLANDER AMERICAN CHAMBER OF COMMERCE AND ENTREPRENEURSHIP (NATIONAL ACE).
U.S. BLACK CHAMBERS, INC.
U.S. HISPANIC CHAMBER OF COMMERCE.

Ms. FOXX. Mr. Speaker, this letter raises concerns about the NLRB joint employer rule's ''impact on all small businesses, contractors, and franchisees around the country.''

Particularly, the letter notes that the rule could ''impact minority-owned small businesses and franchisees that rely on these contracts to sustain and grow their businesses.''

The letter continues: ''The franchise model has been a driver for minority entrepreneurship and job creation by allowing budding entrepreneurs to partner with well-known brands and bolster local ownership of Main Street businesses around the country. It has also been particularly successful on ramping first- and second-generation immigrants into business ownership.''

Mr. Speaker, I urge my colleagues to consider these views, vote ''yes'' on H.J. Res. 98, and overturn the Biden NLRB joint employer rule. I reserve the balance of my time.

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

Mr. Speaker, just very briefly, the joint employer rule would only weaken the critical protections for workers that congressional Democrats and President Biden have fought so hard to enact. This rule only requires that those who can control the conditions of work actually be at the bargaining table when the conditions of work are being negotiated. Without this kind of rule, employees would be stuck trying to negotiate wages with a temp agency that has no control over the wages.

We have heard a lot about the franchisee situation. Mr. Speaker, I include in the RECORD a comment letter from the American Association of Franchisees and Dealers that points out that franchisors should be at the bargaining table if they are, in fact, controlling the conditions, as this rule provides and as the resolution would overturn.

AMERICAN ASSOCIATION OF FRANCHISEES & DEALERS,
Palm Desert, CA, December 7, 2022.
Re AAFD Comments on Proposed Joint Employer Rule (87 Fed. Reg. 54641).

LAUREN MCFERRAN,
Chairman, National Labor Relations Board, Washington, DC.
ROXANNE L. ROTHSCHILD,
Executive Secretary, National Labor Relations Board, Washington, DC.

DEAR CHAIRMAN MCFERRAN AND MS. ROTHSCHILD: On behalf of the American Association of Franchisees and Dealers (''AAFD'') and its franchisee members, we respectfully offer our views and perspective on the September 7, 2022 National Labor Relations Board proposed rule that would expand the joint employer definition under the National Labor Relations Act. The joint employer debate is critical to the long-term equity ownership question of the franchised businesses.

AAFD is the oldest and largest national not for profit trade association advocating the rights and interests of franchisees and independent dealer networks. The AAFD supports more than 60 independent franchisee associations and trademark specific chapters, representing thousands of franchisee operated business outlets. Since our establishment in 1992, the AAFD has focused on its mission to define, identify and promote collaborative franchise cultures that respect the legitimate interests of both

franchisers and franchisees, cultures we describe as embracing our vision of Total Quality Franchising®. The AAFD came into existence in response to a franchising community that has been evolving towards increasingly one-sided and controlling franchise agreements and cultures whereby franchisee equity and business ownership has been continually eroding such that many modern franchise systems have lost all vestiges of business ownership. Interestingly, instructively and importantly, we make special note that the very issues that inspired the formation of the AAFD have also given rise to the Joint Employer doctrine.

For the reasons set forth below, AAFD urges the NLRB to adopt a joint employer standard that respects NRLB's decision in Browning-Ferris Industries of California, Inc., d/b/a BFI Newby Island Recyclery, 362 NLRB No. 186 (2015), and reaffirmed by the Court of Appeals for the DC Circuit, yet takes into account the unique relationships between the franchisees and franchisor needed to protect the brand.

FRANCHISOR COMMUNITY MISDIRECTION REGARDING THE DEFINITION AND FOUNDATION OF JOINT EMPLOYMENT STATUS

Franchisees respect a franchisor's ownership and control of its brand and a legitimate right to enforce system standards to protect the brand, and franchisees depend and rely on the list of benefits and support services from their franchisor. We do not believe that the many services franchisors historically provide to franchisees, and which have been disingenuously withdrawn under the 'guise' of the joint employer threat are, or should be, the focus of the joint employment standard.

Rather, the 'test' of joint employer status should be determined based upon the amount of economic control a franchisor directly or indirectly exerts by use of the franchise agreement, operations manual, or other means, over its franchisees and which negatively impact and eviscerate a franchisee's equity ownership in the franchised business.

We have specifically been asked to comment on the added economic burden placed on franchisees when their franchisor backs away from services in order to avoid Joint Employer attribution. It should be no surprise from our firm contention that franchisors unduly focus their arguments on matters of control on their legitimate interests (and we contend duties) to control and protect brand standards. As part of the franchisor's playbook to insulate itself from joint employer classification is to withdraw franchisee support of human resource services, placing an added economic burden on its franchisees. The AAFD contends that a franchisor's withdrawal of such services is a canard, indeed an integral part of the strategy to misdirect attention from the real issues and is intended to secure franchisee opposition to the joint employer doctrine. Stated simply, in the franchising context, a franchisor's provision of human resources to its franchisees should play a negligible role in determining whether the joint employer doctrine should apply to a franchisor's undue control over its franchisee's equity.

We contend that the human resources services traditionally provided by a franchisor are appropriate for the protection of any brand's important standards of service, products and reputation that are properly a part of brand standards. That said, we recognize that the joint employer doctrine is built upon the traditional evaluation of master/servant and employer/employee characteristics that we believe distract from the real issues of control to subvert and diminish franchisee equity interests. We believe that much of the franchisor community is engaging in the art of misdirection in its arguments, tending to avert attention from the real economic basis for its opposition to the Browning-Ferris joint employer standard which is a bedrock of the traditional common law standard which incorporates both reserved and exercised control. The real concerns are the right to assert economic control, not the enforcement of legitimate brand standards, and include:

1. The claim that all the goodwill of the franchised business belongs to the franchisor, without any recognition of equity ownership by the franchisee whose capital and sweat equity are a major component of a franchise unit's existence and success.

2. Control over the ownership of the franchise location whereby the franchisor owns or controls the real estate which is leased or sublet to the franchisee impacting the franchisee's ownership of the business.

3. Abusive control or ownership of the assets of the business, such that a franchisee is little more than a sharecropper running the business for the benefit of the franchisor. Indeed, regarding McDonalds, it should be noted that McDonalds no longer refers to 'franchisees' in its agreements. In full claim of ownership, a McDonald's licensee is referred to legally as an 'operator' of a business that McDonald's fully owns.

4. The exercise of abusive control over the suppliers and supply chain of the of the operation. Far and beyond the enforcement of necessary system standards, many franchisors dictate sole sources of supply for the purpose of marking up the goods and services being purchased by franchisees, and regardless of the connection to the brand or brand standards. Franchisors now dictate where to buy insurance, process and control customer payments, and even business supplies, as well as dictating the source of brand related commodities—all of which could be potentially purchased at lower cost from competitive sources.

5. Control over the cost of labor by setting hours of operation that are not realistic for a particular franchise unit.

THE SOLUTION TO THE JOINT EMPLOYER DILEMMA

We join the industry in urging the NLRB to recognize the legitimacy of protecting brand standards, and to place its definition of joint employment on the real matter of 'who owns the franchised business equity.' The debate around joint employer is critical because it includes the broader debate beyond the impact of labor practices and also includes the question on who has control over the day-to-day business practices and who owns the equity in the business. We recognize that to refocus the inquiry of joint employer attribution in franchising may require some legislative revisions to the definition of 'control' to the control of equity (which is not a question in the typical master servant discussion). However, we believe that our solution to provide a franchisor exemption is completely consistent with the premise of the NLRA, and within the authority of the NLRB.

In establishing its test for Joint Employment, and advocating for the Browning-Ferris joint employer standard, we urge the NLRB to focus on minimum equity concerns:

1. The right to grow the business and manage its costs of operations, including the management and control of labor, goods, products and services purchased for operations.

2. The right to stay in business, to sell the business, or to transfer the business to heirs.

3. The right to manage the business finances, especially the right of the franchisor to pull funds from the franchisee's bank accounts, or whether the franchisee has the power over its own checkbook.

4. The very important, albeit sensitive, right to control the cost of supplies and suppliers. A significant promise of franchising is the power of volume purchasing, but the ability of a franchisor to dictate suppliers is fraught with the potential for abuse. A key inquiry to determine whether a franchisor has crossed the line of control over the business is whether the franchisee's interests are respected and protected where a franchisor reserves significant control over the franchisee's source of supplies.

5. Similarly, the control over the marketing budget is critical to a successful franchise system. A franchisor may control most of the marketing fund, but a line is crossed when a franchisee retains no ability to influence and direct its marketing dollars.

Quite simply, the solution to the joint employer 'threat' for franchise systems is to recognize franchisee equity ownership to franchisees in a sufficient amount that the franchisee is deemed to be the 'owner' rather than a mere 'operator' of the franchised business.

THE AAFD'S FRANCHISEE BILL OF RIGHTS PROVIDES THE APPROPRIATE TESTS FOR EXCESSIVE CONTROL

We submit the Franchisee Bill of Rights (attached), as appropriate criteria to measure and test whether a franchisor has crossed the line of excessive control. The Franchisee Bill of Rights provide fourteen indicia of a franchise system that respects the equity interests of franchisees.

It is instructive to note that the Franchisee Bill of Rights actually recognize, even require, a franchisor to provide and support brand standards. Providing the expected 'control' over brand standards should not be the determinative criteria for joint employer. We urge the focus on relative equity: the determination of whether the agreement and relationship fairly recognize that the franchisee has a significant equity right in the franchised business.

PROPOSAL TO CREATE A FRANCHISOR EXEMPTION FROM JOINT EMPLOYER ATTRIBUTION FOR FRANCHISE SYSTEMS THAT RECOGNIZE AN INDEPENDENT FRANCHISEE ASSOCIATION AND OFFER A COLLECTIVELY BARGAINED FRANCHISE AGREEMENT

The comparison of franchisee associations to labor unions is inevitable and appropriate. Owners of franchised small businesses organize for reasons that are similar to the reasons that employees form unions: to collectively bargain the rights and benefits of agreements of their engagement to provide services to their franchisor or employer. At its core, the National Labor Relations Act that established the NLRB was enacted to establish the right of employee groups to organize, and the NLRA recognizes important exemptions for companies that recognize unions and have a collectively bargained employment agreement that is ratified by a majority of union members and employees.

AAFD urges that a franchisor that has recognized an independent owners association and has embraced a collectively bargained franchise agreement that has been ratified by a majority of franchisees should also be exempt from the consequences and penalties arising from being determined to be the 'joint employer' of a franchisee's employees. In this regard, it should be noted that the AAFD has established an accreditation for franchisors that meet these tests which we label as our ''Fair Franchising Seal.'' To date, 19 brands have been accredited by the AAFD, all of which have franchise agreements that recognize franchisee rights and equity interests while reaffirming the franchisor's essential interest in protecting

its brand standards. In essence, just as recognized in the NLRA, where the agreement defining rights and obligations has been collectively bargained, the reasons behind the purpose of the law have been met by the marketplace effectively doing its job!

COOPERATION WITH THE FEDERAL TRADE COMMISSION

We also urge the NLRB to work closely with the Federal Trade Commission on defining aspects of the relationship that exceed normal control in a brand. The franchise industry has many unique attributes, and the FTC is the federal agency most engaged with oversight of the industry. Many items, such as uniforms and training, which are critical to the existence of the brand, are immaterial to the employment relationship, and should not create joint employer status.

CONCLUSION

The AAFD appreciates the concerns of the NLRB, with respect to creating an appropriate 'test' for when a franchise system has crossed a line and become the 'joint employer' of a franchisee's putative employees. We believe that many franchisors exercise so much control over the franchised business that the franchisee retains limited if any equity ownership, or control over, in the franchised business. In such circumstances it is appropriate to deem the franchisor as the joint (and sometimes even the sole) employer of the franchised business employees. But we also believe that the establishment, support and enforcement of brand standards are not the appropriate target of any control test. Rather, the inquiry should be focused on the economic rights of business ownership that is promised and expected in a franchise relationship. Fair and balanced franchise agreements and relationships that respect the Franchisee Bill of Rights will provide and meet an appropriate test for determining joint employer status.

Respectfully submitted,

ROBERT L. PURVIN, JR,
Chair, Board of Trustees.
RICHARD E. STROINEY,
Chief Operating Officer and Executive Director.
KEITH R. MILLER,
Director of Public Policy and Engagement.

Mr. SCOTT of Virginia. Mr. Speaker, instead of advancing H.J. Res. 98, the House should prioritize legislation such as H.R. 20, the Protecting the Right to Organize Act, or the PRO Act, that strengthens workers' abilities to organize and collectively bargain.

This resolution goes in the exact opposite direction. For those reasons, I oppose the resolution and encourage all Members to do the same.

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

Ms. FOXX. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I include in the RECORD a letter from a coalition of more than 70 organizations, led by the International Franchise Association, supporting H.J. Res. 98.

NOVEMBER 9, 2023.

SUPPORT USING THE CONGRESSIONAL REVIEW ACT TO OVERTURN THE NLRB'S FINAL JOINT-EMPLOYER RULE

DEAR MEMBER OF CONGRESS: The undersigned organizations, on behalf of a diverse group of workers, small businesses, and critical sectors of our economy, write in strong support of H.J. Res. 98/S.J. Res. 49, a joint resolution of disapproval under the Congressional Review Act to nullify the National Labor Relations Board's (NLRB) Final Rule on Joint-Employer Status. This misguided rule will harm millions of workers and small businesses across the country, and we urge you to vote to protect your constituents from the NLRB's overreach.

Issued in October 2023, the NLRB's Final Joint-Employer Rule institutes an unworkable, overly broad set of circumstances under which a company is considered a ''joint employer'' under federal law. The Final Rule will cripple small businesses in numerous sectors by exposing them to frivolous litigation, eliminating jobs, and slowing wage growth across the country—just like it did when a similar standard was implemented in 2015. At a time of continued economic uncertainty, it is alarming that the NLRB has chosen to move forward on such a divisive and damaging joint employer rule.

Fortunately, in the coming weeks, members of Congress will have the opportunity to vote to nullify the NLRB's Joint-Employer Final Rule by utilizing the Congressional Review Act. By voting in favor of H.J. Res. 98/S.J. Res. 49, members can demonstrate that they support workers and small businesses in their states. Accordingly, we urge your support for nullifying the NLRB's Final Rule and look forward to our continued partnership.

Sincerely,

Air Conditioning Contractors of America; American Bakers Association; American Car Rental Association; American Health Care Association; American Hospital Association; American Hotel & Lodging Association; American Pipeline Contractors Association; American Seniors Housing Association; American Staffing Association; American Supply Association; American Trucking Associations; Argentum; Asian American Hotel Owners Association; Associated Builders and Contractors; Associated Equipment Distributors.

Associated General Contractors of America; CAWA—Representing the Automotive Parts Industry; Coalition to Promote Independent Entrepreneurs; Family Business Coalition; FMI—The Food Industry Association; Franchise Business Services; Global Cold Chain Alliance; Heating, Air-conditioning, & Refrigeration Distributors International; HR Policy Association; IHRSA—The Health & Fitness Association; ICSC; Independent Electrical Contractors; International Foodservice Distributors Association; International Franchise Association; International Warehouse Logistics Associations.

NATSO, Representing America's Travel Plazas and Truckstops; National Association of Convenience Stores; National Association of Electrical Distributors; National Association of Home Builders; National Association of Manufacturers; National Association of Professional Employer Organizations; National Association of Realtors; National Association of Small Trucking Companies; National Association of Wholesaler-Distributors; National Center for Assisted Living; National Cotton Ginners Association; National Council of Chain Restaurants; National Federation of Independent Business (NFIB); National Franchisee Association; National Grocers Association.

National Lumber & Building Material Dealers Association; National Multifamily Housing Council (NMHC); National Ready Mixed Concrete Association; National Restaurant Association; National Retail Federation; National Roofing Contractors Association; National Small Business Association; National Tooling and Machining Association; National Waste & Recycling Association; Power & Communication Contractors Association; Precision Machined Products Association; Precision Metalforming Association; Real Estate Roundtable; Retail Industry Leaders Association (RILA).

Small Business & Entrepreneurship Council; TechNet; Technology & Manufacturing Association; The Association for Hose and Accessories Distribution; The Community Gyms Coalition; Tile Roofing Industry Alliance; Transportation Alliance; TRSA—The Linen, Uniform and Facility Services Association; Truck Renting and Leasing Association; Wholesale Florist and Florist Supplier Association; Workplace Policy Institute; Workplace Solutions Association; U.S. Chamber of Commerce.

Ms. FOXX. Mr. Speaker, the letter argues that the NLRB's joint employer rule is ''misguided'' and ''will harm millions of workers and small businesses across the country.'' The letter also states the final rule ''will cripple small businesses in numerous sectors by exposing them to frivolous litigation, eliminating jobs, and slowing wage growth across the country, just like it did when a similar standard was implemented in 2015.''

The letter continues: ''At a time of continued economic uncertainty, it is alarming that the NLRB has chosen to move forward on such a divisive and damaging joint employer rule.''

Mr. Speaker, it is clear to me in listening to this debate this morning from speaker after speaker on the other side that they have no experience in the private sector and no idea of how our economy works. Our country has flourished economically because of freedom and the entrepreneurial spirit that exists in this country. They constantly want to squelch both of those principles.

I will point out a key difference in the Republican and Democratic Parties illustrated by the joint employer rule. Listen carefully to the language under debate. The conservative language: direct, immediate. The liberal language: indirect, potential.

Any casual observer of American politics can understand how the blatant attempt to smuggle legal ambiguity into the otherwise clear-cut law will be abused by a weaponized and partisan agency. It will open every American franchisor and franchisee to lawfare from the left if it does not toe the Democratic Party line.

With the spurious pretenses we have seen this administration use to go after Catholic Americans and concerned mothers, we don't need to give it another tool to go after American small businesses.

Therefore, Mr. Speaker, I urge the passage of the resolution, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURPHY). All time for debate has expired.

Pursuant to House Resolution 947, the previous question is ordered on the joint resolution.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. FOXX. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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

□ 1015

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Proceedings will resume on questions previously postponed.

Votes will be taken in the following order:

The motion to suspend the rules and pass H.R. 839; and

Passage of H.J. Res. 98.

The first electronic vote will be conducted as a 15-minute vote. Pursuant to clause 9 of rule XX, the remaining electronic vote will be conducted as a 5-minute vote.

CHINA EXCHANGE RATE TRANSPARENCY ACT OF 2023

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the unfinished business is the vote on the motion to suspend the rules and pass the bill (H.R. 839) to require the United States Executive Director at the International Monetary Fund to advocate for increased transparency with respect to exchange rate policies of the People's Republic of China, and for other purposes, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. MCHENRY) that the House suspend the rules and pass the bill, as amended.

The vote was taken by electronic device, and there were—yeas 379, nays 1, not voting 52, as follows:

[Roll No. 9]

YEAS—379

Adams
Aderholt
Aguilar
Alford
Allen
Allred
Amo
Amodei
Armstrong
Arrington
Auchincloss
Babin
Bacon
Baird
Balderson
Balint
Banks
Barr
Barragán
Bean (FL)
Bentz
Bera
Bergman
Bice
Biggs
Bilirakis
Bishop (GA)
Bishop (NC)
Bonamici
Bost
Bowman
Boyle (PA)
Brecheen
Brown
Brownley
Buchanan
Bucshon
Budzinski
Burchett
Burgess
Bush
Calvert
Cammack
Caraveo
Carbajal
Carey
Carl
Carson
Carter (TX)
Cartwright
Casar
Case
Casten
Castor (FL)
Castro (TX)
Chavez-DeRemer
Cherfilus-McCormick
Chu
Ciscomani
Clark (MA)
Clarke (NY)
Cleaver
Cline
Cloud
Clyburn
Clyde
Cohen
Cole
Collins
Connolly
Correa
Costa
Courtney
Craig
Crane
Crawford
Crockett
Crow
Cuellar
Curtis
D'Esposito
Davids (KS)
Davidson
Davis (NC)
De La Cruz
Dean (PA)
DeGette
DeLauro
DelBene
Deluzio
DeSaulnier
DesJarlais
Diaz-Balart
Dingell
Donalds
Duarte
Duncan
Dunn (FL)
Edwards
Ellzey
Emmer
Escobar
Eshoo
Espaillat
Estes
Evans
Ezell
Fallon
Feenstra
Ferguson
Finstad
Fischbach
Fitzpatrick
Fleischmann
Fletcher
Flood
Foster
Foushee
Foxx
Frankel, Lois
Franklin, Scott
Frost
Fry
Fulcher
Gaetz
Gallego
Garamendi
Garbarino
Garcia (TX)
Garcia, Mike
Garcia, Robert
Gimenez
Golden (ME)
Goldman (NY)
Gomez
Gonzales, Tony
Gonzalez, Vicente
Good (VA)
Gooden (TX)
Gottheimer
Graves (LA)
Graves (MO)
Green (TN)
Green, Al (TX)
Greene (GA)
Griffith
Grijalva
Grothman
Guest
Guthrie
Hageman
Harder (CA)
Harris
Harshbarger
Hayes
Hern
Higgins (LA)
Higgins (NY)
Hill
Himes
Houchin
Houlahan
Hoyer
Hoyle (OR)
Hudson
Huffman
Huizenga
Hunt
Issa
Ivey
Jackson (IL)
Jackson (NC)
Jackson (TX)
Jackson Lee
Jacobs
James
Jayapal
Johnson (OH)
Jordan
Joyce (OH)
Joyce (PA)
Kamlager-Dove
Kaptur
Kean (NJ)
Keating
Kelly (MS)
Kelly (PA)
Khanna
Kiggans (VA)
Kildee
Kiley
Kilmer
Kim (CA)
Krishnamoorthi
Kustoff
LaHood
LaLota
LaMalfa
Lamborn
Landsman
Larsen (WA)
Larson (CT)
Latta
LaTurner
Lawler
Lee (CA)
Lee (FL)
Lee (NV)
Lee (PA)
Leger Fernandez
Lesko
Letlow
Levin
Lieu
Lofgren
Loudermilk
Lucas
Luna
Luttrell
Mace
Magaziner
Malliotakis
Maloy
Mann
Manning
Mast
Matsui
McBath
McCaul
McClain
McClellan
McClintock
McCollum
McCormick
McGarvey
McGovern
McHenry
Menendez
Meng
Meuser
Mfume
Miller (IL)
Miller (OH)
Miller (WV)
Mills
Molinaro
Moolenaar
Mooney
Moore (AL)
Moore (UT)
Moran
Morelle
Moskowitz
Moulton
Mrvan
Mullin
Murphy
Nadler
Napolitano
Neal
Neguse
Newhouse
Nickel
Norman
Obernolte
Ocasio-Cortez
Ogles
Omar
Owens
Pallone
Palmer
Panetta
Pascrell
Payne
Pelosi
Peltola
Pence
Perez
Perry
Peters
Pettersen
Pfluger
Pingree
Pocan
Porter
Posey
Pressley
Quigley
Ramirez
Raskin
Reschenthaler
Rodgers (WA)
Rogers (AL)
Rose
Rosendale
Ross
Rouzer
Ruiz
Ruppersberger
Rutherford
Ryan
Salazar
Salinas
Sánchez
Sarbanes
Schakowsky
Schiff
Schrier
Schweikert
Scott (VA)
Scott, Austin
Scott, David
Self
Sessions
Sherman
Sherrill
Simpson
Slotkin
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (WA)
Smucker
Sorensen
Soto
Spanberger
Spartz
Stansbury
Stanton
Stauber
Steel
Stefanik
Steil
Steube
Stevens
Strickland
Strong
Sykes
Takano
Tenney
Thanedar
Thompson (CA)
Thompson (PA)
Timmons
Titus
Tlaib
Tokuda
Tonko
Torres (CA)
Torres (NY)
Trahan
Turner
Underwood
Valadao
Van Drew
Van Duyne
Van Orden
Vargas
Vasquez
Veasey
Velázquez
Walberg
Waltz
Wasserman Schultz
Waters
Watson Coleman
Weber (TX)
Webster (FL)
Wenstrup
Westerman
Wild
Williams (GA)
Williams (NY)
Williams (TX)
Wilson (SC)
Wittman
Womack
Yakym
Zinke

NAYS—1

Massie

NOT VOTING—52

Beatty
Beyer
Blumenauer
Blunt Rochester
Boebert
Buck
Burlison
Cárdenas
Carter (GA)
Carter (LA)
Comer
Crenshaw
Davis (IL)
Doggett
Fitzgerald
Gallagher
García (IL)
Gosar
Granger
Hinson
Horsford
Jeffries
Johnson (GA)
Johnson (SD)
Kelly (IL)
Kim (NJ)
Kuster
Langworthy
Luetkemeyer
Lynch
Meeks
Miller-Meeks
Moore (WI)
Nehls
Norcross
Nunn (IA)
Pappas
Phillips
Rogers (KY)
Roy
Scalise
Scanlon
Schneider
Scholten
Sewell
Swalwell
Thompson (MS)
Tiffany
Trone
Wagner
Wexton
Wilson (FL)

□ 1038

Mses. HOULAHAN and SPANBERGER changed their vote from ''nay'' to ''yea.''

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. BURLISON. Mr. Speaker, had I been present, I would have voted "yea" on rollcall No. 9.

PROVIDING FOR CONGRESSIONAL DISAPPROVAL UNDER THE RULE SUBMITTED BY THE NATIONAL LABOR RELATIONS BOARD RELATING TO ''STANDARD FOR DETERMINING JOINT EMPLOYER STATUS''

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the unfinished business is the vote on passage of 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'', on which the yeas and nays were ordered.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 206, nays 177, not voting 50, as follows:

[Roll No. 10]

YEAS—206

Aderholt
Alford
Allen
Amodei
Armstrong
Arrington
Babin
Bacon
Baird
Balderson
Banks
Barr
Bean (FL)
Bentz
Bera
Bergman
Bice
Biggs
Bilirakis
Bishop (NC)
Bost
Brecheen
Buchanan
Bucshon
Burchett
Burgess
Burlison
Calvert
Cammack
Carey
Carl
Carter (TX)
Case
Chavez-DeRemer
Ciscomani
Cline
Cloud
Clyde
Cole