Testimony of Mark A. Mix
To the United States Senate
Committee on Health, Education, Labor, and Pensions
Hearing: March 8, 2023

Chairman Sanders, Ranking Member Cassidy, and Distinguished Committee Members:

Thank you for the opportunity to appear before you today. I've been involved in the Right to Work movement for 36 years, and for the last 20, I've had the privilege of serving as the President of the National Right to Work Committee, a grassroots organization with over 2 million members and supporters who are dedicated to the principle that unionization should be a voluntary choice for all Americans.

We believe that workers should have the right to join a union, but they should never be forced to join and pay dues to a union as a condition of employment. Unfortunately, compulsory unionism – where you can be fired for refusing to give union bosses a portion of your paycheck – is the reality for nearly half of American workers because their states lack Right to Work laws.

Right to Work laws do one thing: They make the payment of union dues voluntary, not forced. They don't restrict union organizers or workers who want to join a union in any way; they simply allow individual workers to make up their own mind about whether union dues are right for them. So far, 27 states have passed Right to Work protections for their workers, and I urge all of you to support passage of the National Right to Work Act (S. 532), introduced last week by Senators Paul and Cassidy, which would extend these protections to all 50 states.

The announced subject of this hearing is "Defending the Right of Workers to Organize Unions Free from Illegal Corporate Union-Busting."

We do need to defend workers' rights, but not in the way that the leaders of the union movement propose to do it through the so-called "Protecting the Right to Organize Act."

The "PRO Act," if it's "pro" anything, favors increased coercive powers for union officials at the expense of rank-and-file workers. It outlaws Right to Work, subjecting workers in all 50 states to forced union dues. It also subjects independent contractors to monopoly union bargaining and forced dues, depriving

them of the one thing they like most about their work arrangements: Independence. It gives the National Labor Relations Board (NLRB) the authority to unilaterally overturn a workplace election, handing union organizers a victory merely for having coerced or otherwise fraudulently obtained a majority of union "cards," which cannot possibly be trusted to reflect the true level of worker support for the union.

There are far too many provisions to list here, but in total they represent the largest Big Labor power grab attempted since the Great Depression.

To justify these radical proposals, union officials claim we're in a crisis. Fewer Americans in the private sector are union members than we've ever seen, yet Gallup pollsters have found Americans' approval rating of unions is at record highs! It's clear that Big Labor has been able to clean up its public image despite the fact that corruption, financial mismanagement, violent strikes, and attacks on non-union workers continue.

But that same Gallup poll of Americans' attitudes towards unions asked non-union workers whether they'd be interested in joining a union, and 65% said they had little or no interest. Only 11% said they were "extremely interested."

That overwhelming disinterest is what has caused a drop in union organizing, not restrictive laws and employer meddling, and certainly not Right to Work.

But union officials' solution is to come here demanding even more power and privilege to force workers *involuntarily* into paying union fees for their so-called representation, rather than to do a better job attracting workers to join their ranks *voluntarily*.

As someone who's spent decades defending the rights of individual workers, I vehemently oppose illegal actions taken by corporations against their own employees. When Charlene Carter was fired from her job as a Southwest Airlines flight attendant for standing up for her Christian faith and criticizing political stances taken by the Transport Workers Union officials she was forced to pay money to, it wasn't a union boss who signed her pink slip. A jury found that Charlene's firing was an illegal corporate action by Southwest Airlines: She had been fired by her employer (at the request of union officials), because of her religious views.

I have the honor of also serving as President of the National Right to Work Legal Defense Foundation, which litigated Charlene's case, and so I've gotten an up-close view of how labor law is enforced in this country. And I have to say, the title of this hearing makes a common but critical error. It wrongly assumes that labor litigation is an endless struggle between two groups, corporations and unions, when in fact there is a third group that often gets overlooked: workers themselves.

It's not always company vs. union: When workers are trapped in a corrupt, ineffective union that they don't want, their employer often can't do anything to help them. When workers are illegally fired by their employer, union officials who advocated the firing in the first place certainly won't do anything to help. Worker victimization at the hands of union bosses is a real problem, but workers don't have the armies of highly paid lawyers that corporations and union bosses have.

So while we can be sure that any employer slip-up during a union drive will be pounced on by union lawyers, violations of workers' rights by their so-called union "representatives" are rarely exposed. Workers are pressured into silence, knowing that union militants take great pleasure in harassing union critics. They often don't know their rights, or how to bring legal action to enforce them, and even if they knew, they'd never be able to afford a prolonged court battle.

Even if they retain free legal counsel from a group like the Right to Work Foundation, labor law is stacked against independent workers, and it is enforced by NLRB bureaucrats who are often former union activists themselves.

Consider the case of Foundation client Kerry Hunsberger. Last July, she and her coworkers at Latrobe Specialty Metals in Pennsylvania voted down a United Steelworkers union contract, and circulated a petition to remove the USW bosses from their workplace altogether. Upon hearing of the petition, a USW official secretly ratified the rejected contract anyway, hoping to trigger the NLRB's "contract bar."

The contract bar doesn't exist anywhere in federal law. The NLRB created and imposed it on American workers. And the Board only allows union decertification votes when the union's contract is expired or is within 30 and 60 days of expiring. If the USW had successfully triggered its trap and ratified the contract that the workers at Latrobe Metals didn't want, Kerry and her colleagues would have been stuck paying dues to the USW for up to three more years. They avoided that fate only because their Right to Work Foundation attorneys found errors in the union's hastily ratified contract. Policies like the contract bar, which,

again, the NLRB invented out of whole cloth and could repeal at any time, serve only to make it harder for workers to decertify a union.

The contract bar isn't the only hurdle to decertification. The "voluntary recognition bar" prevents workers from removing a union for up to a year after a union is installed by the corrupt "Card Check" system.

The "settlement bar" blocks decertifications after an NLRB settlement to which the workers weren't a party.

The "successor bar" blocks a vote for up to a year after a company is acquired by another company, something workers have no say in.

To decertify a union, workers must wait up to three years for their 30-day "contract bar" window to arrive, then hope that none of the other bars apply. They must collect signatures from more than 30% of their colleagues on a decertification petition, and complete the following steps:

1) Fill out NLRB Form 502RD (which has over 50 boxes);
2) Send Form 502RD to the employer and union officials, along with "Statement of Position" and "Description of Procedures" documents;
3) E-file a "Certificate of Service" proving the above documents were sent; and
4) Mail or deliver the original petition to the appropriate NLRB regional office.

Failure to properly complete these steps will result in the NLRB throwing out the workers' decertification petition, leaving them saddled with union bosses they don't want. Most of the time, workers must navigate this entire process on their own. It's clear that these daunting procedures are meant to discourage workers from taking action. They're effectively told to stay out of it, leave the legal filings and petitions to the union lawyers, and accept the lie that union bosses know what's in their best interests.

But union bosses clearly don't always have workers' interests in mind. They didn't have Charlene Carter's interests in mind when they encouraged Southwest to fire her.

They didn't have Kerry Hunsberger's interests in mind when they tried to spring a contract bar trap on her.

When Amalgamated Transit Union Local 689 President Raymond Jackson told union officers to "slap" employees who opposed the union agenda, he didn't have Thomas McLamb's best interests in mind. In November 2021, McLamb was assaulted by a shop steward after he campaigned against incumbent officers to serve on local 689's board.

A UFCW official did not have Jessica Haefner's best interests in mind when he falsely told her last August that the way to opt-out of union dues in Right to Work Texas was to write "$0" in the dues deduction field on her union membership form. Jessica later discovered her form had been altered to induce dues deductions.

Operating Engineers union bosses did not have Rayalan Kent's best interests in mind when they filed spurious NLRB "blocking charges" to halt the count of a decertification vote Rayalan and his coworkers had taken at Reith Riley Construction Company. And by the way, the NLRB never even had a hearing to see whether those "blocking charges" justified stopping the election. The already-cast ballots were simply destroyed.

These are just a few examples of the thousands of cases the Right to Work Foundation has litigated on behalf of the workers who've been victimized by union bosses, who force workers to accept so-called representation they do not want, and then demand that they pay for this "representation" that they didn't ask for and believe they'd be better off without.

The reforms we need are not in the "PRO Act":

- We need to end monopoly union bargaining, so that every worker can decide for themselves whether union representation is right for them.
- We need to allow workers to hear from their employers as well as their union, so they can make an informed choice without being subjected to a one-sided propaganda campaign from union organizers.
- We need to make unionization a voluntary choice for every worker, so that corrupt union bosses can be held accountable, and workers' freedom of association is protected.
- And most of all, we need to ban forced union dues across the country with a National Right to Work law.

Thank you for your time. I look forward to answering any questions the Committee Members may have.

Respectfully submitted,

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National Right to Work Committee
National Right to Work Foundation