



COALITION FOR A **DEMOCRATIC WORKPLACE**

July 11, 2022

U.S. House of Representatives
Washington, DC 20515

Dear Representative:

The Coalition for a Democratic Workplace (“CDW”) urges you to reject Amendment 237 to the annual defense authorization bill, H.R. 7900, National Defense Authorization Act for Fiscal Year 2023. Amendment 237, which was introduced by Representative Norcross, would eliminate workers’ right to secret ballots in union representation elections, infringing on their right to privacy and their right to vote their conscience on whether or not they want to be represented by a union.

CDW is a broad-based coalition of hundreds of organizations representing hundreds of thousands of employers and millions of employees in various industries across the country concerned with a longstanding effort by some in the labor movement to make radical changes to the National Labor Relations Act (“NLRA”) without regard to the severely negative impact they would have on employees, employers, and the economy. CDW was originally formed in 2005 and has since focused on pushing back against regulatory overreach by the NLRB.

Amendment 237 would require employers who contract or subcontract with the Department of Defense to recognize a labor organization as the representative of their contracting workforce if the union presents signed authorization cards from a majority of the workers eligible to participate in the petitioned-for bargaining unit. Under this system, known as card check, workers express their desire to join or not join a union by signing authorization cards. These cards are not signed in private but instead may be signed in front of union organizers and the worker’s colleagues.

Under current law, on the other hand, workers vote on union representation via secret ballots, as is required by the Board’s implementing statute, the National Labor Relations Act, which specifically mandates that employees be allowed to cast secret ballots free from coercion or interference by employers and unions. When voting via secret ballot, workers go to private voting booths and can vote their conscience without pressure from others trying to influence their vote. Passing Amendment 237 would replace this secure process with card check, a fundamentally flawed system that needlessly exposes workers to coercion, harassment, and intimidation.

The Supreme Court, federal courts of appeals, and the NLRB itself have consistently recognized that Board-conducted secret ballot elections are the preferred and most reliable means of determining majority support. The Supreme Court called card check “admittedly inferior to the election process.”¹ The Fourth Circuit observed, “It would be difficult to imagine a more unreliable method of ascertaining the real wishes of employees than a ‘card check,’ unless it were an employer’s request for an open show of hands.”² The Second Circuit cautioned card check “may

¹ *NLRB v. Gissel Packing Co.*, 395 U.S. 575 (1969).

² *NLRB v. S.S. Logan Packing Co.*, 386 F.2d 562, 565 (1967).



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induce an otherwise recalcitrant employee to go along with his fellow workers.”³ Even several unions have advocated for the superiority of the secret ballot process. The United Automobile, Aerospace, and Agricultural Implement Workers of America, United Food and Commercial Workers, and the AFL-CIO wrote in a brief before the NLRB that “the secret ballot election system provides the surest means of avoiding decisions which are the result of group pressures and not individual decisions.”⁴

Card check is an unreliable method for determining workers’ wishes on union representation, and it exposes them to potential coercion, intimidation, and harassment by individuals attempting to influence their vote. The secret ballot, NLRB-supervised election process provides necessary safeguards to protect workers and their right to freely vote their conscience. Passing Amendment 237 would violate this fundamental right. CDW therefore urges members of the House of Representatives to reject Amendment 237.

There are also several other concerning amendments that implement labor restrictions, including Amendment 403, which blacklists federal contractors from the procurement process, and Amendment 809, which eliminates nonunion contractors from participating in the procurement process. These amendments do not belong on this bill and Congress should reject them.

Sincerely,

Kristen Swearingen
Chair
The Coalition for a Democratic Workplace

³ *NLRB v Cayuga Crushed Stone*, 474 F.2d 1380 (1973).

⁴ Joint Brief of the United Automobile, Aerospace, and Agricultural Implement Workers of America, the United Food and Commercial Workers, and the AFL-CIO in *Chelsea Industries and Levitz Furniture Co. of the Pacific, Inc.*, Nos. 7-CA-36846, 7- CA-37016 and 20-CA-26596 (NLRB).