

STATEMENT OF
WILMA B. LIEBMAN
CHAIRMAN
NATIONAL LABOR RELATIONS BOARD

BEFORE THE
SUBCOMMITTEE ON LABOR, HEALTH, AND HUMAN SERVICES,
EDUCATION, AND RELATED AGENCIES
COMMITTEE ON APPROPRIATIONS

UNITED STATES HOUSE OF REPRESENTATIVES

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Chairman Rehberg, Ranking Member DeLauro, and Members of the Subcommittee, I am pleased to appear before you today. Thank you for your invitation. I am privileged to serve as the Chairman of this Agency, which celebrated its 75th anniversary last year.

Before discussing our budget, I'd like to take a moment to talk about the importance of this Agency, in historical perspective. Our current labor law is, fundamentally, a product of the Great Depression, when millions were out of work. Most major industries were unorganized. The law barely tolerated labor unions. Labor conflict was widespread with violence common. In the summer of 1935, responding to this crisis, Congress passed the National Labor Relations Act. It is worth remembering why Congress did what it did. To quote Section 1 of the new law:

The inequality of bargaining power between employees ... and employers ... substantially burdens and affects the flow of commerce, and tends to aggravate recurrent business depressions, by depressing wage rates and the purchasing power of wage earners....

In other words, the National Labor Relations Act was seen as a means of restoring the nation to economic prosperity.

The new law articulated basic rights: the right of workers, free from intimidation, to act together to improve their terms and conditions of employment, and the right to bargain collectively with their employer. The Act established a system to enforce these rights; it created a permanent independent agency empowered to conduct elections in workplaces and to remedy unfair labor practices. Over the next decades, millions of

workers achieved a middle class way of life through collective bargaining and agreements that provided fair wages and benefits in major industries of the economy.

Labor law continues to trigger passionate debate, as we have seen in state houses and at the federal level in recent months. Although I might wish it were less rancorous, I welcome the controversy: its intensity is a sign that labor law still matters deeply in this country. Labor law matters because democracy in the workplace is still basic to a democratic society and because collective bargaining is still basic to a fair economy. It allows labor and business to reach their own solutions in response to changing economic conditions.

The sharp debate over this law, which has not been significantly amended since 1947, has sometimes had a big impact on the Board's functioning. Contentious debates in the Senate over confirmation of a president's nominees, have resulted in longstanding vacancies, often leaving the Board at less than full strength.

Indeed, for 27 months, ending in April 2010, the Board was reduced to just two members –Member Peter Schaumber and myself. Despite our significant philosophical differences, we worked hard to resolve as many cases as we could and eventually issued nearly 600 unanimous decisions. The Supreme Court undid some of that work with its June 2010 decision in *New Process Steel vs. the NLRB*, finding the Board needed at least three members to issue decisions.

The Board has now been reconstituted for the last year. We have issued new decisions in 97 cases that were returned to us as a result of the Court's decision. Only seven such cases remain pending. We have tackled many formerly deadlocked cases that had languished for years. I'd like to acknowledge the hard work of my three colleagues, and of our staffs, during very uncertain and challenging times.

The Acting General Counsel will talk more specifically about our budget request and about his side of the Agency, which employs the bulk of our employees, but I do want to say that we have significantly streamlined our operations on the Board side in recent years. Over the last ten years, as the number of cases brought to the Board for decision has declined, so has the Board side staff – from 153 full-time equivalents in 2001 to 113.2 FTEs in 2011.

Also, the number of Administrative Law Judges, who hear Unfair Labor Practice cases across the country, has dropped from 60 to 40 during that same period. We have also moved to a model that allows our ALJ's to work from home, thereby reducing infrastructure costs and creating a more mobile adjudication system. We have also initiated technology reforms, such as our new electronic, agency-wide case processing system, called NexGen. The investment in that technology will pay rich dividends and result in significant savings for the taxpayers in the long term.

Meanwhile, case intake has crept up after years of decline. At the ALJ level, case intake was up almost 7% in 2010 from the prior fiscal year and our trial backlog – cases

docketed and awaiting trial – was up 5.6%. This Agency clearly still has an important role to play in the nation's economy and we need adequate resources to carry out our statutory responsibilities.

Mr. Chairman, the 2012 budget request before you will allow our agency to keep up with the rising costs of rent and compensation in the short-term, and allow the agency to continue its trend toward a more efficient work-force in the long term. I look forward to working with you and this committee to ensure that the NLRB and the NLRA continue to endure and play an important role in our nation's economic recovery.