

OPENING STATEMENT OF JAMES T. ABBOTT OF VIRGINIA
TO BE A MEMBER OF THE FEDERAL LABOR RELATIONS AUTHORITY
BEFORE THE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
NOVEMBER 7, 2017

Good morning. Mr. Chairman, Members of the Committee, Senator Lankford and Senator Heitkamp. I want to thank you for conducting this hearing at a time when so many other pressing issues are competing for your time and attention. I would also like to thank your Committee staff for the outstanding support which they provided to me as I prepared for this hearing. I appreciate your warm reception.

I am honored and humbled to have been nominated by President Trump to become a Member of the Federal Labor Relations Authority. If confirmed, it will be, for me, the highest privilege of my professional life.

With me today are my husband of 21 years, Daniel Gri, and our sons, Caleb and Alfred who are the pride of my life. That Daniel is able to join me today is nothing short of a miracle. Just four months ago, he was on life support following a serious automobile accident. This is his first public outing since that accident and is testament to his indomitable spirit. I rely upon that spirit every day. My sister and brother-in-law, Linda and Don Walde, and my niece, Heather Legore, are here as well.

My professional career has spanned 34 years, 33 devoted to public service. I learned about service and hard work from my parents and grandparents. Grandfather Whipple worked as a farmhand in Kansas in the 1910s, until he saved enough money to buy his own land. His farm survived the Great Depression through hard work and determination. He continued to farm well into his 80s. Grandfather Abbott singlehandedly operated a grist mill. He hired helpers only when, in his words, "I could pay a fair wage for a fair day of work." My mother, a nurse, and my father, a minister, served as missionaries in Congo where they built churches, to serve not just as centers of worship but to also serve as local medical clinics and schools. But, for me, the ultimate example of public service was my brother, Denis Abbott, who gave his life in service to his country in Pleiku, Vietnam.

My 18 years as a labor and employment attorney with Department of Defense activities throughout the country, my four years as Deputy General Counsel for the Office of Compliance, and my ten years as Chief Counsel to three Members (and Chairmen) of the FLRA have prepared me to immediately assume all of the responsibilities of this important position.

Before joining the FLRA as Chief Counsel, I sat at dozens of bargaining tables negotiating local and nationwide collective-bargaining agreements. Through those experiences, I learned firsthand how differences can be constructively resolved but also how they can end up in dispute. I have represented agencies before each regional office of the FLRA's Office of General Counsel, and I have litigated cases before the Merit Systems Protection Board, the Equal Employment Opportunity Commission, and Federal Court. I have witnessed the dynamics of labor relations at work between first-line supervisors

and hard-working union stewards in a variety of settings, such as work floors where artillery equipment and attack helicopters are serviced and repaired. I have met with employees and union stewards at sites where the working conditions were difficult, even dangerous. I have had to tell first-line supervisors and generals that they were wrong and what they must do to comply with the Statute. Therefore, I understand why the protections of our Statute are so important to Federal employees.

I believe that we can all agree that the Federal workforce in 2017 looks very different than it did in 1978 when our Statute was enacted. For example, advances in technology have dramatically changed how Federal agencies carry out their day-to-day business. In 1978, computers were rare; email did not exist; and enemies of the United States did not have the means to instantaneously compromise entire swaths of records. In this changed environment, the Authority must clearly define what matters “affect working conditions” and those which constitute negotiable “conditions of employment.”

The Statute mandates that the Authority provide leadership to the labor-management relations community. But the Authority has been reluctant to address these important questions. In the past two years, the Authority’s majority has dismissed part or all of the arguments raised by parties in 52% of its published decisions and those dismissals have impacted the outcome in one-fourth of those cases. It is difficult for the Authority to remain relevant and to provide leadership when it goes out of its way to avoid addressing difficult questions.

In other areas, though, the Authority has gone too far. Five times since 2010, the Court of Appeals for the District of Columbia Circuit has reversed the Authority for going beyond the parameters of our Statute to interpret other statutes that do not fall within our area of expertise or power. In one notable example, the Court scolded the majority when it took upon itself to determine how much discretion Title 10 of the United States Code gave to the Secretary of the Air Force, a statute that concerns military preparedness. To remain relevant, the Authority must heed the cautions of Federal Courts.

To that end, I pledge that, if I am confirmed, I will adjudicate all matters fairly and impartially, enforce the Statute as it is written, and respect judicial precedent. I look forward to working with my colleagues to ensure that the FLRA remains relevant and to drafting decisions that can be understood by laypersons as well as attorneys.

It is my privilege to appear before you today. I am happy to answer any questions. Thank you.