



**AS PREPARED FOR DELIVERY
October 28, 2015**

**CONTACT: Press Office
(202) 226-9440**

**Opening Statement of Rep. John Kline (R-MN)
Chairman, House Education and the Workforce Committee
Legislative Markup of H.R. 3459,
Protecting Local Business Opportunity Act
October 28, 2015**

Good morning. Today, the committee will consider H.R. 3459, the *Protecting Local Business Opportunity Act*. The legislation rolls back a partisan decision by the National Labor Relations Board that will upend small businesses across the country.

The White House recently hosted a summit on amplifying the voice of workers in our nation's workplaces. We noted it was an interesting idea for an administration that has been tone deaf to the challenges facing workers and their families. Anyone who has been listening knows the president's failed policies are wreaking havoc on the country.

An anemic economy, sluggish job growth, higher health care costs, and stagnant wages are the price working families continue to pay for the administration's misguided priorities. The president has shown he would rather grow the size and power of the federal government than grow the economy and middle-class. That's why so many families are struggling to make ends meet and are worried about the future.

It's also why the bill before the committee is so important. The National Labor Relations Board has played a leading role in advancing the president's flawed, top-down approach to the economy, and its effort to redefine what it means to be an employer is just the latest example.

For more than 30 years, federal labor policy held that two or more employers were "joint employers" if they shared direct and immediate control over essential terms and conditions of employment, such as hiring, wages, and work schedules. This commonsense policy protected workers and allowed countless individuals – including women, minorities, and first generation Americans – to realize the dream of owning a small business.

Their small businesses are located in neighborhoods across the country, employing millions of workers and providing invaluable support to local communities. Now the NLRB is threatening everything these men and women worked so hard to achieve. In its *Browning Ferris* decision, the board vastly expanded joint employer liability to include those who have indirect control – or even the potential to control – employment conditions. The consequences of this will be far reaching.

(More)

Larger businesses will begin exerting greater control over small businesses. If they are legally liable for the decisions of their smaller partners, they will have no choice but to demand a greater role in how those small businesses operate. Or they might stop doing business with local employers altogether. For many, the legal liability won't be worth the trouble of franchising a business or working with a local subcontractor.

This is what we've learned in recent months from those directly affected by this unprecedented decision. They have shared how it will lead to higher costs for consumers and fewer jobs for workers, as well as threaten their livelihoods and the livelihoods of other small business owners. Ed Braddy, who owns a Burger King restaurant in Baltimore, warned this decision "will very likely cause me to go out of business." He went on to say:

"I became a franchisee so that I could run my own business and help those in my community. The new joint employer standard will not only destroy that dream, but the dreams of other young men and women who hope to create a better future for themselves."

I know there are some who would rather heed the advice of academics and so-called experts. But I think we should listen to Ed Braddy and others like him, because they are the ones who must face the costly consequences. And make no mistake, these men and women are urging us to stop the NLRB's attack on their businesses and pass the *Protecting Local Business Opportunity Act*.

The bill simply says that a joint employer relationship exists only when multiple employers share actual, direct, and immediate control over employment decisions. This is the same standard that served workers and employers well for decades. If a franchisor or contractor has significant control over a small business, this bill allows the NLRB to hold them responsible. What the bill does not allow is for three partisan bureaucrats to disrupt the lives of countless small business owners and the millions of workers they employ.

We have spent years trying a top-down approach to the economy, and it isn't working. Policies that place more faith and control in politicians and bureaucrats will not deliver the growth and prosperity our nation desperately needs. It's likely we will discuss a number of those policies today, including ideas that would allow Washington to micromanage work shifts or make it easier for trial lawyers to harass employers. These are just new twists on the same flawed approach that continues to fail working families.

A better approach is getting Washington out of the way and letting small businesses do what they do best: creating jobs and opportunity for workers and their families. Let's ensure policies are in place to protect workers, but do so in a way that allows America's job creators to succeed. That is why I urge my colleagues to help roll back the NLRB's misguided joint employer decision by supporting the *Protecting Local Business Opportunity Act*.

With that, I will now recognize Ranking Member Scott for his opening remarks.

#

U.S. House Committee on Education and the Workforce