

**Prepared Statement of Ranking Member Richard Burr**

**Nominations of David Weil, Administrator of the Wage and Hour Division for the Department of Labor and Gwynne Wilcox and David Prouty, Members of the National Labor Relations Board**

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July 15, 2021

Thank you, Chair Murray for scheduling this nominations hearing.

This is proof that there is bipartisanship in Washington because Senator Murray and I both agree that workers should not be cheated. Where we disagree is on how we look at the workforce and employers, and whether nominees should be held accountable for what they've said and what they've done.

Before I joined Congress I worked for a living.

I was a salesman early on and then I managed a sales group. It was a good business. We had a lot of employees. We served a lot of customers. There were a lot of people who were employed because of what we did.

We made their lives better by selling them the products our customers needed and wanted.

When things went well employees got raises and promotions and kept their jobs. When things went poorly we tightened our belts and made adjustments.

We responded to our customers and we worked hard.

Not once did any of us think to ask the question: How would someone in Washington want us to run our business?

For the nearly 800,000 franchise establishments in the U.S., the 30 million small business, and even the over 16,000 thousand big businesses in the country I think they operate the same way.

Most employers play by the rules. They try to treat their employees well and pay them fairly. They want to provide a safe working environment and keep employees happy so they come back every day.

Employers accept that there need to be rules to protect workers and protect customers.

But those rules need to be based on reality not on what academics who have never had a real job think would work.

Unfortunately, our nominees here today fail to pass that test.

Instead of nominating individuals who could gain broad bipartisan support, nominees who would seek balance and fairness in their roles, the President has nominated extreme ideologues who will be reliably partisan advocating an extreme agenda.

It's not an agenda that will grow our economy or help create jobs.

It's an anti-employer agenda aimed at bringing more businesses under the thumb of bureaucrats in Washington.

David Weil is being recycled from the Obama Administration back to his job at the Wage and Hour Division.

He received no Republican support the last time he was nominated, and with good reason.

He engaged in such partisan overreach that courts stepped in to stop his badly constructed overtime rule.

When the vision he advocated for in his writings – such as hostility to the gig economy – wasn't rejected by the courts, even voters in liberal states such as California overturned them with voter referendums.

There is no greater opponent of the gig economy than David Weil.

The gig economy was a lifeline and source of income for so many communities during the recent pandemic and helps so many even outside of the pandemic for individuals to choose the job they want, the hours they want, and the life they want.

Democrats used to be supportive of this concept of letting people work where and when they want, Nancy Pelosi even used it as an excuse for passing the Affordable Care Act.

But now David Weil wants to shut down innovative job opportunities. He wants to march workers back into the factory door and punch a time clock.

If you want a side-hustle, if you want to be free to choose your hours, if you don't want the hassle of a 40-hour work week and want to be an independent contractor, look out. David Weil is coming for you.

And god forbid you want to own a franchise.

Franchise businesses have been a springboard to business ownership for countless women, minorities, and recent immigrants.

At least 30 percent are minority owned. At least 35 percent are women owned.

Franchises have been a springboard for millions. But David Weil wants to shut you down.

Franchises exist in the restaurant industry, the child care sector, the hospital industry and more. But David Weil doesn't like it. Because he wrote a paper on it. So he's coming after you, too.

Which is ironic considering the President's recent executive order aimed at promoting competition when David Weil's world view will instead lead to extraordinary consolidation and less competition.

Millions will suffer as a result of his policies, but that's ok, because he wrote a paper about it and he knows better than decades of real world experience with franchises around the country.

David Weil is on the case.

David Weil believes he knows better than the many minority and women franchise owners in this country who made their own living, who climbed their way up, and who created jobs for others along the way.

He believes his academic credentials are worth more than their real-world experience. He believes his policy papers are worth more than their hard-earned paycheck.

Turning to our National Labor Relations Board nominees.

I looked at the NLRB website and it says that the NLRB is an independent federal agency that protects the rights of private sector employees to join together, with or without a union, to improve their wages or working conditions.

The NLRB is charged with conducting elections to determine if the workers want to be represented by a union. It is charged with handling complaints against both unions and companies. It has a balanced job to do.

The words independent and balanced stick out in my mind and our nominees today clearly fail to meet that test.

Gwynne Wilcox involved herself in a project that referred to the American free enterprise system, and by extension the wealth and opportunity it creates, as quote the primary threat to the viability of American democracy Unquote

The primary threat? Wow.

This report proudly advocated banning employers from engaging their workers in a dialogue over work scheduling, job structure, housing and childcare.

All these conversations would have to happen through a convoluted system of workforce monitors and works councils.

So, the small business owner needs a huge bureaucracy. The worker can no longer talk to their boss like an equal with talent, unique skills, and individual merit. Because there's nothing Americans like more than more bureaucracy, I guess.

The report also demands banning right-to-work laws and would require special favoritism for labor organizations as an interest group. Such brazen advocacy for government subsidized favoritism and graft disqualifies Ms. Wilcox as an impartial enforcer of our labor laws and raises serious concerns about her impartiality.

North Carolinians know David Prouty, and as we say in the South, bless his heart.

His experience in North Carolina has only led to job losses and killing industries, I fear what he will do if given a national platform.

Mr. Prouty doesn't believe that you have the right to work, unless of course you are a union member.

He has spent his career advancing the priorities of labor unions. Those same unions pushing to ban the secret ballot in union elections.

This would allow union organizers to stand over your shoulder and watch you vote.

I'm sure there wouldn't be any intimidation on how to vote or retribution if you don't vote the right way.

Right?

Madam Chairman, America faces an enormous economic challenge from China.

Part of that is China's sheer size in population and natural resources.

But I think it's mostly their unfair trade practices and unending intellectual property theft.

Yet no small part of China's success is the fact that people like David Weil, Gwynne Wilcox, and David Prouty have declared American business an enemy.

We can't combat China's communist government by growing our own government control of the private sector.

We can't tell American workers they are free when union organizers are going to watch how you vote.

Was anyone surprised when President Xi was elected 2,952 to one?

Is that the future of American labor elections?

Rather than make the United States an economic powerhouse of opportunity for employers and job seekers, these nominees want to stifle growth.

When workers seek innovation and freedom to control their own work-life balance, these nominees want to say no. No to the gig economy, no to new workplace solutions.

Instead of bringing employers and workers together to resolve problems, these nominees want to create conflict, expand bureaucracy, and empower unions above all else.

Madam Chairman these nominees are very troublesome. They don't reflect the mainstream. They are partisan idealists set out to remake the American economy to expand the control of government over the lives of workers, employers, job creators and innovators.

I hope the American people will watch this hearing, see how dangerous these nominees are and speak out, now, while they still can.

I ask unanimous consent to enter two letters into the record signed by a total of 15 business groups, including small business, opposing the nomination of Dr. Weil, and another letter from the U.S. Chamber of Commerce expressing concern with Dr. Weil's nomination

I yield back.