The Honorable Lamar Alexander
Chairman
Senate Committee on Health, Education,
Labor & Pensions
U.S. Senate
428 Dirksen Senate Office Building
Washington, DC 20510

The Honorable John Kline
Chairman
House Committee on Education and Workforce
U.S. House of Representatives
2176 Rayburn House Office Building 2176
Washington, DC 20515

Dear Chairman Alexander and Chairman Kline:

On behalf of the National Small Business Association, I would like to thank you for your leadership in crafting the *Protecting Local Business Opportunity Act* (*S. 2015* / *H.R. 3459*) which will bring much needed certainty back into labor law, reversing the new ambiguous and senseless joint employer standard included in the National Labor Relations Board's (NLRB) Browning-Ferris Industries (BFI) decision. NSBA is hopeful there will be an opportunity to include language to reverse this NLRB decision and preserve the traditional definition of joint employer in the end-of-year omnibus spending measure.

As the nation's oldest nonpartisan small business advocacy group, NSBA reaches more than 65,000 small businesses nation-wide and we strongly support your legislation to rein in another regulatory body careening out of control and imposing new burdens and restraints that has the potential to seriously harm American small businesses and entrepreneurship.

For more than 30 years, the NLRB considered two or more employers "joint employers" if they had "actual," "direct," and "immediate" control over essential terms and conditions of employment. This joint employer standard has protected small businesses from liability involving employees over which they do not have actual or direct control. As a result, franchisors and franchisees or contractors and subcontractors were not considered joint employers because each employer directed the daily operations of his or her own separate business. However, the recent decision by the NLRB in the BFI decision upended decades of precedent to change the NLRB's standard for determining joint employer status, which requires companies to participate in union negotiations and could potentially make them liable for their subcontractors' employment actions.

S. 2015 and H.R. 3459 will guarantee small-business owners and their employees will not be threatened by the recent NLRB decision and will instead restore the decades old joint employer standard used to determine whether two separate companies are considered one employer with respect to a group of employees for purposes of liability and bargaining obligations under the National Labor Relations Act.

NSBA is concerned that the joint employer changes adopted by the NLRB threatens the livelihoods of nearly every small business. The NLRB has made it far more difficult for independent business owners to

build sustainable, profitable local businesses, and the BFI decision will only lead to large corporations dominating Main Street. Small businesses need a statutory definition of "joint employer" in federal labor law that protects them and their employees. It is critical congressional leaders respond to the potentially transformative BFI ruling and stop this government overreach into our local businesses and communities.

We applaud the swift actions of Chairman Kline and the House Education and Workforce Committee for passing the bill through committee, and we look forward to working with you to bring this measure to the House floor for a vote and continue to urge the Senate to do the same.

Sincerely,

Todd McCracken
President & CEO