



COALITION FOR A **DEMOCRATIC WORKPLACE**

July 21, 2021

Dear Chair Murray and Ranking Member Burr and members of the U.S. Senate Committee on Health, Education, Labor and Pensions:

The Coalition for a Democratic Workplace (CDW), a broad-based coalition of hundreds of organizations representing hundreds of thousands of employers and millions of employees in various industries across the country, and the 280 undersigned organizations write in opposition to the Protecting the Right to Organize (PRO) Act, S. 420.

This radical legislation would violate workers' free choice and privacy rights, jeopardize industrial stability, cost millions of American jobs, threaten vital supply chains, and greatly hinder our economic recovery from COVID-19. The PRO Act includes dozens of provisions that would boost union membership and dues revenue streams at the expense of the rights of workers, employers, and consumers alike. Forbes Tate Partners (FTP) conducted a survey of over 1,000 registered voters and found that respondents overwhelmingly were concerned with the various policies of the bill, some of which are explained below.¹

The PRO Act would infringe on worker privacy and freedom of choice. The bill requires employers to give union organizers employees' personal information without prior approval from the employees themselves. This includes home addresses, phone numbers, email addresses, work shifts and locations, and job classifications. Employees couldn't opt out of this requirement or choose which information is shared, exposing them to potential harassment, intimidation tactics, stalking, and online bullying. FTP's survey found that 75% of respondents were concerned with this policy.

The PRO Act would also destabilize US industrial operations and the economy and threaten supply chains by reversing current bans on intermittent strikes and secondary boycotts. Under the PRO Act, unions would be able to conduct a series of short intermittent strikes to disrupt business operations if an employer doesn't concede to their demands, potentially disrupting the economy and critical supply chains, including those fundamental to our COVID-19 response. One of the fundamental goals of the National Labor Relations Act is to help ensure industrial peace. Intermittent strikes, however, would leave unionized and nonunionized employers alike in constant fear of work stoppages – further threatening the already fragile stability of our economy.

The PRO Act would also rescind all restrictions against “secondary boycotts,” or activity used by unions to impose economic injury on neutral third parties, including consumers, companies, or other unions, that do business with a company involved in a labor dispute with the union. These activities were banned in the 1940s and 1950s after unions engaged in excessive and abusive tactics. Allowing secondary boycotts will once again expose all consumers, unions, and businesses to coercion, picketing, boycotts, and similar tactics.

Additionally, the bill drastically shortens the timeframe between union organizers petitioning for a union representation election and the holding of that election, ensuring employees do not have

¹ Survey results can be viewed at http://myprivateballot.com/wp-content/uploads/2021/06/PRO_Act-National-Survey-Summary-6.28.21.pdf.

adequate time to hear both sides of the debate over whether union representation is right for them. The PRO Act would greatly expand the National Labor Relations Board's power to force union representation on employers and employees without an election, depriving workers of their right to a vote.

The PRO Act would also eliminate right-to-work protections across the country, including in the twenty-seven states whose populations and representatives voted for and implemented such laws. Right-to-work laws allow workers to choose not to pay union dues to a labor organization whose policies and advocacy efforts do not align with their own beliefs. These laws ensure workers can continue to work without being forced to join a union. According to the FTP survey, 57% of registered voters believe workers should not be forced to join a union as a condition of employment, while 67% were concerned with the bill's efforts to eliminate right-to-work protections and force workers to choose between paying union dues or losing their jobs.

Furthermore, the PRO Act would impose nationwide California's recently adopted and failed "ABC test" to determine whether a worker is an employee or independent contractor. The ABC test makes it very difficult to qualify as an independent contractor, so nationwide application would result in many workers losing their independent contractor status. This is at odds with what independent contractors actually want. Time and again, these workers explain that they choose independent work for the flexibility and autonomy it offers. Additionally, the ABC test will force businesses that contract with such workers to no longer use them for various services out of fear of the liability such contracts could trigger. This would threaten small businesses that rely on those contracts. This policy was concerning to 70% of FTP's survey respondents.

Finally, the PRO Act would codify into law the NLRB's controversial 2015 *Browning-Ferris Industries (BFI)* decision that expanded and muddled the standard for determining when two separate entities are "joint-employers" under federal labor law. Joint-employers are mutually responsible for labor violations committed against the jointly employed workers as well as bargaining obligations with respect to those workers, so the liability associated with joint-employer status is immense. The *BFI* decision overturned decades of established labor law and undermined nearly every contractual relationship, from the franchise model to those between contractors and subcontractors and suppliers and vendors. The *BFI* standard also hampered businesses' efforts to encourage "corporate responsibility" throughout their supply chains and business partners. In FTP's survey, 65% of voters were concerned about the bill upending the franchise business model, a business ownership structure that attracts first time small business owners from a diverse range of backgrounds and experiences.

These are only a few of the dangerous policies included in the PRO Act. CDW and the 280 undersigned organizations urge the committee to reject this radical legislation and protect the rights of America's workers, small businesses, and consumers.

Sincerely,

The Coalition for a Democratic Workplace

AGC Florida East Coast
AGC Maine
AGC of California
AGC of Kansas
AGC of Kentucky
AGC of Metropolitan Washington DC
AGC of Minnesota
AGC of Ohio
AGC of South Dakota, Highway-Heavy-Utility Chapter
AGC of Wyoming
Air Conditioning Contractors of America
Alabama AGC
Alabama Restaurant & Hospitality Association
Alaska Cabaret, Hotel, Restaurant & Retailers Association
American Bakers Association
American Foundry Society
American Home Furnishings Alliance
American Hotel & Lodging Association
American Mold Builders Association
American Pipeline Contractors Association
American Rental Association
American Seniors Housing Association
American Society of Employers
American Staffing Association
American Supply Association
American Trucking Association
Americans for Tax Reform
Arizona Builders Alliance
Arizona Restaurant Association
Arizona Rock Products Association
Arkansas Hospitality Association
Arkansas Ready Mixed Concrete Association
Arkansas State Chamber of Commerce
Asian American Hotel Owners Association
Associated Builders and Contractors
Associated Builders and Contractors Alabama Chapter
Associated Builders and Contractors Alaska Chapter
Associated Builders and Contractors Arkansas Chapter
Associated Builders and Contractors Carolinas Chapter
Associated Builders and Contractors Central California Chapter
Associated Builders and Contractors Central Florida Chapter
Associated Builders and Contractors Central Ohio Chapter
Associated Builders and Contractors Central Pennsylvania Chapter
Associated Builders and Contractors Central Texas Chapter

Associated Builders and Contractors Chesapeake Shores Chapter
Associated Builders and Contractors Connecticut Chapter
Associated Builders and Contractors Cornhusker Chapter
Associated Builders and Contractors Cumberland Valley Chapter
Associated Builders and Contractors Delaware Chapter
Associated Builders and Contractors Eastern Pennsylvania Chapter
Associated Builders and Contractors Empire State Chapter
Associated Builders and Contractors Florida East Coast Chapter
Associated Builders and Contractors Florida First Coast Chapter
Associated Builders and Contractors Florida Gulf Coast Chapter
Associated Builders and Contractors Georgia Chapter
Associated Builders and Contractors Greater Baltimore Chapter
Associated Builders and Contractors Greater Houston Chapter
Associated Builders and Contractors Greater Michigan Chapter
Associated Builders and Contractors Greater Tennessee Chapter
Associated Builders and Contractors Hawaii Chapter
Associated Builders and Contractors Heart of America Chapter
Associated Builders and Contractors Illinois Chapter
Associated Builders and Contractors Indiana/Kentucky Chapter
Associated Builders and Contractors Inland Pacific Chapter
Associated Builders and Contractors Iowa Chapter
Associated Builders and Contractors Keystone Chapter
Associated Builders and Contractors Maine Chapter
Associated Builders and Contractors Massachusetts Chapter
Associated Builders and Contractors Metro Washington Chapter
Associated Builders and Contractors Minnesota/North Dakota Chapter
Associated Builders and Contractors Mississippi Chapter
Associated Builders and Contractors Nevada Chapter
Associated Builders and Contractors New Hampshire/Vermont Chapter
Associated Builders and Contractors New Jersey Chapter
Associated Builders and Contractors New Mexico Chapter
Associated Builders and Contractors New Orleans/Bayou Chapter
Associated Builders and Contractors North Alabama Chapter
Associated Builders and Contractors North Florida Chapter
Associated Builders and Contractors Northern California Chapter
Associated Builders and Contractors of Louisiana
Associated Builders and Contractors of Michigan
Associated Builders and Contractors Northern Ohio Chapter
Associated Builders and Contractors Ohio Valley Chapter
Associated Builders and Contractors Oklahoma Chapter
Associated Builders and Contractors Pacific Northwest Chapter
Associated Builders and Contractors Pelican Chapter
Associated Builders and Contractors Rhode Island Chapter
Associated Builders and Contractors Rocky Mountain Chapter
Associated Builders and Contractors San Diego Chapter

Associated Builders and Contractors South Texas Chapter
Associated Builders and Contractors Southeast Texas Chapter
Associated Builders and Contractors Southeastern Michigan Chapter
Associated Builders and Contractors Southern California Chapter
Associated Builders and Contractors Texas Coastal Bend Chapter
Associated Builders and Contractors Texas Gulf Coast Chapter
Associated Builders and Contractors Texas Mid-Coast Chapter
Associated Builders and Contractors Utah Chapter
Associated Builders and Contractors Virginia Chapter
Associated Builders and Contractors West Tennessee Chapter
Associated Builders and Contractors West Virginia Chapter
Associated Builders and Contractors Western Michigan Chapter
Associated Builders and Contractors Western Pennsylvania Chapter
Associated Builders and Contractors Western Washington Chapter
Associated Builders and Contractors Wisconsin Chapter
Associated Equipment Distributors
Associated General Contractors of America
Associated General Contractors of America, Nebraska Chapter
Associated General Contractors of Michigan
Associated General Contractors of NH
Associated General Contractors of Virginia
Associated General Contractors of Wisconsin
Associated General Contractors South Texas Chapter
Associated Industries of Arkansas, Inc.
Bidgesource, LLC
Brick Industry Association
California Restaurant Association
Carolinas AGC
Carolinas Ready Mixed Concrete Association
Catapult, Formerly CAI & TEA
CAWA - Representing the Automotive Parts Industry
Center for the Defense of Free Enterprise
Coalition of Franchisee Associations
Colorado Restaurant Association
Connecticut Restaurant Association
Consumer Technology Association
Delaware Restaurant Association
Education Market Association
Florida Restaurant & Lodging Association
FMI - The Food Industry Association
Foodservice Equipment Distributors Association
Franchise Business Services
Gases and Welding Distributors Association
Georgia Restaurant Association
Global Cold Chain Alliance

Global Market Development Center
Hawaii Restaurant Association
Heating, Air-conditioning, & Refrigeration Distributors International
Hospitality Maine
Hospitality Minnesota
Hospitality Tennessee
HR Policy Association
IAAPA, the Global Association for the Attractions Industry
ICSC - Innovating Commerce Serving Communities
Idaho Lodging & Restaurant Association
Illinois Restaurant Association
Independent Electrical Contractors
Independent Electrical Contractors Atlanta Chapter
Independent Electrical Contractors CenTex Chapter
Independent Electrical Contractors Central Ohio Chapter
Independent Electrical Contractors Central Pennsylvania Chapter
Independent Electrical Contractors Chesapeake Chapter
Independent Electrical Contractors East Texas Chapter
Independent Electrical Contractors Florida West Coast Chapter
Independent Electrical Contractors Fort Worth/Tarrant Co. Chapter
Independent Electrical Contractors Georgia Chapter
Independent Electrical Contractors Greater Cincinnati Chapter
Independent Electrical Contractors Indy Chapter
Independent Electrical Contractors Kentucky & So. Indiana Chapter
Independent Electrical Contractors Lubbock Chapter
Independent Electrical Contractors Midwest IEC Chapter
Independent Electrical Contractors Montana Chapter
Independent Electrical Contractors New England Chapter
Independent Electrical Contractors New Jersey Chapter
Independent Electrical Contractors Northern New Mexico Chapter
Independent Electrical Contractors Northwest Pennsylvania Chapter
Independent Electrical Contractors Oregon Chapter
Independent Electrical Contractors Texas Gulf Coast Chapter
Independent Electrical Contractors Wichita Chapter
Independent Professionals and Self Employed Association
Indiana Restaurant & Lodging Association
Industrial Fasteners Institute
Interlocking Concrete Pavement Institute
International Foodservice Distributors Association
International Franchise Association
International Warehouse Logistics Association
Iowa Association of Business and Industry
Iowa Restaurant Association
Kansas Chamber of Commerce
Kansas Restaurant & Hospitality Association

Kentucky Concrete Association
Kentucky Restaurant Association
Leading Builders of America
Littler Workplace Policy Institute
Louisiana AGC
Louisiana Restaurant Association
Manufactured Housing Institute
Maryland Ready Mix Concrete Association
Massachusetts Restaurant Association
Metals Service Center Institute
Michigan Concrete Association
Michigan Restaurant & Lodging Association
Mid-South Independent Electrical Contractors
Mississippi Hospitality & Restaurant Association
Missouri Restaurant Association
Modular Building Institute
Montana Contractors Association
Montana Restaurant Association
Motor & Equipment Manufacturers Association
National Apartment Association
National Association of Chain Drug Stores
National Association of Chemical Distributors
National Association of Home Builders
National Association of Manufacturers
National Association of Mutual Insurance Companies
National Association of Sporting Goods Wholesalers
National Association of Wholesaler-Distributors
National Club Association
National Council of Chain Restaurants
National Federation of Independent Business
National Franchisee Association
National Grocers Association
National Lumber & Building Material Dealers Association
National Marine Distributors Association
National Multifamily Housing Council
National Ready Mixed Concrete Association
National Restaurant Association
National Retail Federation
National Roofing Contractors Association
National Small Business Association
National Stone, Sand & Gravel Association
National Tooling and Machining Association
National Utility Contractors Association
NATSO, Representing America's Travel Plazas and Truck Stops
Nebraska Restaurant Association

Nevada Chapter AGC
Nevada Restaurant Association
New Jersey Motor Truck Association
New Jersey Restaurant & Hospitality Association
New Mexico Restaurant Association
New York State Restaurant Association
North American Die Casting Association
North Carolina Restaurant & Lodging Association
North Dakota Hospitality Association
Ohio Hotel & Lodging Association
Ohio Restaurant Association
Oklahoma Aggregates Association
Oklahoma Restaurant Association
Open Competition Center
Oregon Restaurant & Lodging Association
Outdoor Power Equipment
Pennsylvania Restaurant & Lodging Association
Pet Industry Distributors Association
Petroleum Equipment Institute
Plastics Industry Association
Portland Cement Association
Power & Communication Contractors Association
Precision Machined Products Association
Precision Metalforming Association
PRINTING United Alliance
Promotional Products Association International
Puerto Rico Restaurant Association
Restaurant Association of Maryland
Restaurant Association of Metropolitan Washington
Retail Industry Leaders Association
Rhode Island Hospitality Association
SNAC International
South Carolina Restaurant & Lodging Association
South Dakota Retailers Association
Southern Illinois Builders Association
Texas Restaurant Association
TEXO, The Construction Association
The Associated General Contractors of Texas
The Coalition for a Democratic Workplace
Tile Roofing Industry Alliance
Truck Renting and Leasing Association
U.S. Chamber of Commerce
United Motorcoach Association
Utah Restaurant Association
Virginia Manufacturers Association

Virginia Ready Mixed Concrete Association
Virginia Restaurant, Lodging & Travel Association
Virginia Trucking Association
West Virginia Hospitality & Travel Association
Western Carolina Industries
Western Electrical Contractors Association
Western Growers
Wisconsin Ready Mixed Concrete Association
Wisconsin Restaurant Association
Workforce Fairness Institute
Wyoming Lodging & Restaurant Association

cc: Members of the Senate HELP Committee