

**Congress of the United States**  
Washington, DC 20510

December 29, 2021

The Honorable Joseph R. Biden  
The White House  
1600 Pennsylvania Avenue N.W.  
Washington, DC 20500

Dear Mr. President,

We write to urge you to formally withdraw the nomination of Dr. David Weil, of Massachusetts, to be Administrator of the U.S. Department of Labor's Wage and Hour Division, Department of Labor, vice Cheryl Marie Stanton. Dr. Weil's track record is hostile to employers, unproductive to the employees served by such employers, and the actions he took at the federal level were mired in costly litigation.

The United States Constitution divides the responsibility for populating top positions in the federal government between the President and the United States Senate. The appointments clause (Article II, Section 2) empowers the President to nominate "by and with the Advice and Consent of the Senate". The role of the Senate to give advice and consent is an integral part of the process for populating top officials in our government.

The Senate received Dr. Weil's nomination on June 8, 2021. The Committee on Health, Education, Labor and Pensions (HELP) carefully considered the merits of his nomination, actions that included a full committee hearing. The HELP Committee was unable to favorably report Dr. Weil's nomination to the full Senate during an August 3, 2021 business meeting, lacking the necessary votes to do so. In the nearly five months that followed this failed business meeting, no action was taken by the full Senate to discharge or otherwise consider his nomination. On December 21, 2021, this nomination was formally returned to the White House, as the Senate did not give consent to hold over Dr. Weil's nomination.

The lack of sufficient support for Dr. Weil's is not surprising given actions he took during the Obama Administration as Wage and Hour Administrator. Chief among the concerns with his record: promulgation of a job-killing overtime rule in 2016 that overstepped and was therefore struck down by the U.S. District Court; an arbitrarily strict standard for classification of independent contractors in 2015; and a destructive expansion of "joint employer" definition in 2016 that led to a 93 percent increase in litigation. Additionally, both Dr. Weil and the Attorney General of the Commonwealth of Massachusetts have refused to provide all the documents regarding Weil's actions with the Labor Advisory Board in Massachusetts. Requests to both by the Ranking Member's staff have been stonewalled and public records requests have been unnecessarily delayed. These are not the actions of an individual committed to transparency and

accountability in government service. His nomination has raised sincere concerns on behalf of many of the constituencies we represent.

Small business entrepreneurs in this country deserve a Wage and Hour Division Administrator that will work constructively alongside them. The Senate has spoken this year that Dr. Weil is not the right fit for this position. We appreciate your responsiveness to this request, and ask for prompt confirmation that the nomination of Dr. David Weil is formally withdrawn.

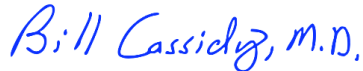
Sincerely,



Mike Braun  
U.S. Senator



Richard Burr  
U.S. Senator



Bill Cassidy, M.D.  
U.S. Senator



Roger Marshall, M.D.  
U.S. Senator



Tim Scott  
U.S. Senator



Jerry Moran  
U.S. Senator