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July 22, 2025

The Honorable Tim Walberg
Chair, Committee on
Education & the Workforce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Robert Scott
Ranking Member, Committee on
Education & the Workforce
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Walberg and Ranking Member Scott:

The Association of Union Constructors (TAUC) submits this letter to express our opposition to both H.R. 1319, the “Modern Worker Empowerment Act” and H.R. 1320, the “Modern Worker Security Act.”

TAUC is the premier national trade association for the union construction and maintenance industry in the United States. We represent close to 1,800 contractor member companies in the industrial maintenance and construction fields. Our members employ and invest in skilled craft personnel on construction and maintenance projects to deliver value to their clients. These men and women are among the most well trained and highly skilled construction industry professionals in the world and ensure our members provide the safest, highest quality, and most cost-effective construction services to their customers.

Unfortunately, with employee misclassification and payroll fraud rampant in the construction industry, our members are at a significant competitive disadvantage in an industry where contracts are often determined in a head-to-head bid process. A recent study of worker misclassification and payroll fraud in the construction industry found that in August 2017 between 12.4 percent and 20.5 percent of the construction industry workforce nationwide was either misclassified as independent contractors or working “off the books.”¹ Contractors who deliberately misclassify their workers are estimated to save between 14.2 percent and 30.75 percent in labor costs compared to employers who properly classify their workers.²

While we recognize the need to consider modernizing labor frameworks to keep pace with changes in the economy, any change should improve – not weaken -- compliance with employment and tax laws and reduce misclassification in the construction industry. Unfortunately, by limiting the scope of the factors courts consider in determining employee status, H.R. 1319 would facilitate misclassification in the construction industry.

¹ Russell Ormiston, Dale Belman, and Mark Erlich, “An Empirical Methodology to Estimate the Incidence and Costs of Payroll Fraud in the Construction Industry.” Page 5. (2020) <https://stoptaxfraud.net/wp-content/uploads/2020/03/National-Carpenters-Study-Methodology-for-Wage-and-Tax-Fraud-Report-FINAL.pdf>

²Ormiston, Page 49.

Similarly, the “Modern Worker Security Act” (H.R. 1320), which prohibits agencies and courts from consideration in employment tests under any federal law whether a firm has provided compensation to a worker as a “portable benefit,” could also lead to great misclassification of employees in the construction industry.

TAUC members provide portable health, retirement, and training benefits to workers through multiemployer plans established under collective bargaining agreements. This reflects the nature of the construction industry, where workers may work for multiple contractors and allows for benefits that follow workers from job to job. The provision of these benefits should not automatically provide firms with legal safe harbor precluding appropriate scrutiny of the underlying employment relationship. The overly broad definition of what constitutes a “portable benefit” contained in H.R. 1320 and the establishment of a safe harbor could lead to greater employee misclassification in the construction industry.

TAUC continues to support the use of a multifactor “economic reality” test as the framework for assessing employment status. This test considers the totality of the employment relationship in the construction industry, protecting our members from unfair competition from contractors who misclassify their employees as independent contractors. Both H.R. 1319 and H.R. 1320 would undermine this framework, weakening compliance with employment and tax laws and increasing opportunities for employees to be misclassified. As such, we urge the Committee to reject these bills.

Thank you for your consideration in this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel M. Hogan". The signature is stylized with a large initial "D" and a long horizontal stroke at the end.

Daniel M. Hogan

Chief Executive Officer