

**Brandon Farris**  
Vice President  
Domestic Policy

December 13, 2023

The Honorable Bob Good  
Chair  
Subcommittee on Health, Employment, Labor and Pensions  
House Committee on Education and the Workforce

The Honorable Mark DeSaulnier  
Ranking Member  
Subcommittee on Health, Employment, Labor and Pensions  
House Committee on Education and the Workforce

Dear Chair Good and Ranking Member DeSaulnier:

The National Association of Manufacturers thanks the Subcommittee for holding today's hearing examining the Employee Rights Act (ERA) ([H.R. 2700](#)), Modern Worker Empowerment Act ([H.R. 5513](#)) and Save Local Business Act ([H.R. 2826](#)). These pieces of legislation will support workers, entrepreneurs, small businesses and the economy.

The NAM is the largest manufacturing association in the United States, representing small and large manufacturers in every industrial sector and in all 50 states. Manufacturing employs 13 million men and women, contributes \$2.91 trillion to the U.S. economy annually and accounts for 54% of private-sector research and development. The NAM is the voice of the manufacturing community and the leading advocate for a policy agenda that helps manufacturers compete in the global economy and create jobs across the United States.

The ERA would guarantee the use of secret ballots in elections where workers are determining whether or not to unionize, allowing workers to vote their conscience free of harassment or retaliation. This legislation is of particular importance as the National Labor Relations Board (NLRB) recently imposed a new framework via its decision in *Cemex*<sup>1</sup> that expands the Board's ability to compel unionization based on whether or not an employee signs an authorization card in front of coworkers or union organizers.

The Modern Worker Empowerment Act would support independent contractors and employees by requiring the use of the common law test to determine a worker's classification as an independent contractor or employee across federal laws. Importantly, it would protect employees in bona fide employment relationships from misclassification while ensuring individuals have

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<sup>1</sup> *Cemex Construction Materials Pacific*, Cases 28–CA–230115, et al.

the ability to earn a living in a manner of their choosing. This bill would provide needed clarity for workers and businesses, especially in light of the NLRB's recent decision in *The Atlanta Opera*<sup>2</sup> which would make it more difficult for an individual to pursue independent work opportunities.

Finally, the Save Local Business Act would codify the traditional joint employer standard that requires employers have "actual, direct, and immediate" control over employees to be considered joint employers. This common-sense standard provides certainty for workers and employers and protects a variety of working relationships across the economy. The NAM is concerned that the NLRB's recently finalized joint employer regulation<sup>3</sup> – which would make *indirect* or even *unexercised, reserved control* over workers' terms and conditions of employment sufficient to trigger joint employer status – threatens contractual relationships across the country and would cause confusion for businesses both large and small.

These bills represent important steps to unleash the full potential of modern manufacturing and innovation and ensure that the U.S. remains globally competitive well into the future. The NAM appreciates your leadership on these important issues and thanks the Subcommittee for holding today's hearing.

Sincerely,

Brandon Farris  
Vice President, Domestic Policy  
National Association of Manufacturers

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<sup>2</sup> *The Atlanta Opera*, 372 NLRB No. 95 (2023)

<sup>3</sup> *Standard for Determining Joint Employer Status*, 88 FR 73946, (2023) available at <https://www.federalregister.gov/documents/2023/10/27/2023-23573/standard-for-determining-joint-employer-status>