



March 25, 2025

The Honorable Ryan Mackenzie
Chairman
Committee on Education and Workforce
Subcommittee on Workforce Protections
U.S. House of Representatives
Washington, DC 20515

The Honorable Ilhan Omar
Ranking Member
Committee on Education and Workforce
Subcommittee on Workforce Protections
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Mackenzie, Ranking Member Omar and Members of the U.S. House Committee on Education and Workforce's Subcommittee on Workforce Protections:

On behalf of Associated Builders and Contractors, a national construction industry trade association with 67 chapters representing more than 23,000 members, I appreciate the opportunity to comment on the subcommittee's hearing, "[The Future of Wage Laws: Assessing the FLSA's Effectiveness, Challenges, and Opportunities](#)."

While the Fair Labor Standards Act is the foundation of American labor standards, its ambiguous composition is responsible for an ever-shifting regulatory environment that creates uncertainty for workers and businesses alike, risking legitimate independent contractors in the construction industry losing critical opportunities for work. In addition, the FLSA fails to accommodate for the state of the modern economy and the needs of independent contractors.

ABC supports legislation that clarifies who qualifies as an independent contractor and protects workers who have long been properly classified as independent contractors in the construction industry. These workers play a vital role in providing specialized skills, entrepreneurial opportunity and stability during fluctuation of work common to the industry. Further, independent contractors play an important role for large and small contractors, delivering construction projects, safely, on time and on budget for their government and private customers. For this reason, ABC supports the following legislation:

- [H.R.1319](#), the **Modern Worker Empowerment Act**, introduced by Rep. Kevin Kiley, R-Calif., which amends the FLSA to base worker classification determinations on two clear tests: a business's control over a worker's work and how it is performed and the worker's opportunity to express entrepreneurial discretion. This legislation also clarifies that safety, legal and insurance guidelines and contractual project completion deadlines are not determinants of worker classification. Further, it would ensure the worker classification standard is consistent between the FLSA and the National Labor Relations Act.
- [H.R.1320](#), the **Modern Worker Security Act**, introduced by Rep. Kiley, which provides businesses with the opportunity to offer flexible or portable benefits to workers without the risk of the provision of these benefits jeopardizing worker classification determinations.

In addition, ABC encourages representatives to reintroduce [H.R.1980](#), the Working Families Flexibility Act, from the 117th Congress. This legislation amends the FLSA to provide workers

choice between compensatory overtime pay and compensatory time off at a rate not less than 1.5 times hours worked. At the same time, it ensures that offering such compensatory time is only provided in accordance with applicable provisions of collective bargaining agreements when an employee is represented by organized labor or affirmed between the employer and employee when the employee is not represented by a labor organization.

ABC urges the committee to advance the Modern Worker Empowerment Act to provide businesses and workers alike with a clear, workable and straightforward standard for determining worker classification. Further, ABC encourages the committee to expand opportunities for businesses to provide benefits to workers through the advancement of the Modern Worker Security Act.

ABC appreciates the opportunity to comment on today's hearing and looks forward to continuing to work with the Subcommittee on Workforce Protections.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kristen Swearingen', written in a cursive style.

Kristen Swearingen
Vice President, Legislative & Political Affairs