

February 23, 2024

The Honorable Charles Schumer
The Honorable Mitch McConnell
The Honorable Bernie Sanders
The Honorable Bill Cassidy
United States Senate Washington, D.C. 20510

The Honorable Mike Johnson
The Honorable Hakeem Jeffries
The Honorable Virginia Foxx
The Honorable Robert "Bobby" C. Scott
United States House of Representatives Washington, D.C. 20515

cc: Members of Congress

Re: DOL Independent Contractor Rule

Dear Members of Congress:

The undersigned organizations write to share our opposition to the Congressional Review Act (CRA) challenge of the U.S. Department of Labor's 2024 Independent Contractor Rule.

Millions of working people depend on the Fair Labor Standards Act's minimum wage and overtime protections. In 2021, the previous administration finalized a rule that narrowed the scope of workers covered by the FLSA, in contravention of the FLSA's plain meaning and long-standing Supreme Court precedent. With an interpretation that favored finding workers to be exempt from FLSA coverage as independent contractors, that rule unfairly tipped the scales toward businesses rather than the workers DOL is supposed to protect. This had particularly damaging impacts for women, Black workers, immigrants, people of color, and people with disabilities who disproportionately hold precarious, low-paid jobs.

DOL's 2024 Independent Contractor Rule honors the FLSA's intent and restores the scope of the FLSA's coverage so that millions of workers are not left without bedrock minimum wage and overtime rights and protections.

Now, large corporations and industry trade groups are pushing Congress to vote for a CRA to overturn the rule. Contrary to claims being made by these large corporations and their trade groups, the independent contractor rule is a simple and necessary course correction that:

- Restores the multi-factor analysis developed by the U.S. Supreme Court and applied for decades by appellate and district courts, and DOL itself;
- Clarifies that the ultimate question is whether workers are running their own business (and therefore are independent contractors) or dependent on finding work in the business of another;

- Helpfully explains how and why each factor in the “economic realities” analysis helps to answer the question of whether workers are truly in business for themselves; and
- Clarifies that all factors are considered, rejecting the elevation of two “core” factors, in contravention of clear Supreme Court precedent, in the approach used by the Trump rule.

The DOL’s independent contractor rule will ensure that all people who work for someone else - regardless of who they are, where they work, or what they do - have access to our foundational minimum wage and overtime protections. Should a CRA to overturn this rule be brought to the floor, we strongly urge all Members of Congress to vote No.

Sincerely,

A Better Balance
Action Center on Race and the Economy
AFL-CIO
AFSCME
American Economic Liberties Project
American Federation of Teachers
Association of People Supporting Employment First (APSE)
Beyond the Bars
Care in Action
Caring Across Generations
Center for Justice & Democracy
Center for Law and Social Policy
Center for Popular Democracy
Center for WorkLife Law
Chicago Jobs Council
Civic Ventures
Clearinghouse on Women's Issues
Coalition Of Labor Union Women
Coalition on Human Needs
Communications Workers of America (CWA)
Community Legal Services, Philadelphia
Economic Opportunity Institute
Economic Policy Institute
Equal Justice Center
Equal Rights Advocates
Florida National Organization for Women (FL NOW)
Florida Policy Institute
Food Chain Workers Alliance
Freedom Network USA
Georgia Budget and Policy Institute
Gig Workers Rising
Good Jobs First

Greater Orlando National Organization for Women (Greater Orlando NOW)
Hospitality Training Academy (HTA)
Impact Fund
Institute for Women's Policy Research
International Brotherhood Of Teamsters
Jobs to Move America (JMA)
Jobs With Justice
Justice for Migrant Women
JustUS Coordinating Council
Kentucky Equal Justice Center
KIWA
Labor Center, University of Massachusetts-Amherst
Labor Education Program, University of Massachusetts Lowell
Labor Resource Center - UMass Boston
Legal Aid at Work
Legal Aid Society
Los Angeles Alliance for a New Economy
Miami Workers Center
MomsRising
Mon Valley Unemployed Committee
Mountain State Justice
NAACP
National Black Worker Center
National Center for Law and Economic Justice
National Coalition for the Homeless
National Domestic Workers Alliance
National Education Association
National Employment Law Project (NELP)
National Employment Lawyers Association
National Immigration Law Center
National Institute for Workers' Rights
National Partnership for Women & Families
National Women's Law Center
National Workrights Institute
NETWORK Lobby for Catholic Social Justice
New Jersey Association on Correction
New Labor
North America's Building Trades Unions (NABTU)
North Carolina Justice Center
Northwest Workers' Justice Project
NOW Marion County
Oregon Center for Public Policy
Pension Rights Center

Philadelphia Drivers Union
Pinellas County NOW
PowerSwitch Action
Pride at Work
Progressive Leadership Alliance of Nevada
Public Justice Center
Public Advocacy for Kids(PAK)
Reproductive Freedom for All (formerly NARAL Pro-Choice America)
Restaurant Opportunities Centers United
Rideshare Drivers United
Service Employees International Union
Shriver Center on Poverty Law
Stand Up Nashville
Sugar Law Center for Economic & Social Justice
Sur Legal Collaborative
TechEquity Collaborative
The Indiana Community Action Poverty Institute
The Leadership Conference on Civil and Human Rights
The Legal Aid Society
The New York Women's Foundation
The Workers Circle
Transport Workers Union of America
Ujima, The National Center on Violence Against Women in the Black Community
Unemployment Law Project
United Brotherhood of Carpenters & Joiners of America
United Food and Commercial Workers International Union (UFCW)
United for a Fair Economy
United Steelworkers (USW)
Voices for Progress
Women Employed
Women's Law Project
Worker Justice Center of New York
Workers Defense Action Fund
Working Partnerships USA
Workplace Fairness
Workplace Justice Lab at Rutgers University
Workplace Justice Project at Loyola Law Clinic
Worksafe
Young Invincibles