



March 6, 2024

Senator Bill Cassidy (R-LA)
Ranking Member
Senate Health, Education, Labor, and
Pensions Committee
U.S. Senate

Representative Kevin Kiley (R-CA)
Member
Committee on Education and Workforce
U.S. House of Representatives

Re: Statement of Support for Congressional Review Act resolutions to repeal the U.S. Department of Labor's Independent Contractor Rule.

Dear Ranking Member Cassidy and Representative Kiley:

On behalf of the Coalition for Workforce Innovation ("CWI"), we thank you for your introduction of S.J. Res. 63 and H.J. Res. 116, resolutions providing for congressional disapproval of the rule submitted by the Department of the Labor relating to "Employee or Independent Contractor Classification Under the Fair Labor Standards Act." These resolutions will support individuals who seek independent work throughout the economy by repealing the damaging and short-sighted final regulation from DOL. DOL's final rule rescinds an effective and workable policy and replaces it with one that is arbitrary, vague and without legal standing nor precedent.

CWI's membership represents worker advocates, entrepreneurs, start-ups, businesses, and trade associations that support the modernization of federal workforce policy to enhance choice, flexibility, and economic opportunity for all workers. Our broad and diverse stakeholders span across the healthcare, technology, media, transportation, distribution, and retail sectors where independent workers have gained access to flexible work arrangements that fit their lifestyle. Today's independent workers include part-time students, caregivers, and retirees – spanning across many generations. These individuals are primarily motivated by finding a source of supplemental income or organizing work around their lives and not the other way around. Independent work also serves as a foundation for many new entrepreneurs to start and grow small businesses.

Unfortunately, independent work is being threatened by DOL because of a misunderstanding about who partakes in this style of work, how it is structured, and why it is so popular. CWI

submitted comments¹ to the DOL's request for stakeholder input highlighting various polls² and surveys³ that consistently show the popularity of independent work. The data further demonstrates that individuals choose independent work due to the desire for flexibility and ability to control their own schedules. In addition, CWI's comments argued that the proposal injects uncertainty into the analysis of determining if an individual is an independent contractor, diverts the factors away from considerations bearing on economic dependence, and fails to account for many of the realities of modern work arrangements. While DOL accepted some comments from CWI during its review, the department's final analysis failed to address core concerns while potentially creating more uncertainty for affected stakeholders.

The DOL's 2021 Independent Contractor Rule presents an appropriate, modern embodiment of how independent work classification should be evaluated. It also accurately reflects and distills longstanding federal caselaw. Unfortunately, the current DOL has disregarded both the 2021 Rule, binding legal precedent, and accurate facts and characteristics of independent workers in favor of a policy that will misclassify independent workers as employees, diminish work opportunities as we have seen with California's similarly harmful approach⁴ and chill economic dynamism.

CWI is committed to building an economy that works for all types of workers by preserving flexibility and entrepreneurship while protecting against potential abuses. This Administration's attempt, through the DOL's 2024 Independent Contractor Rule, fails this test while harming the very individuals they claim to be supporting. For this reason, CWI strongly supports the passage of your Congressional Review Act resolutions, which will repeal this damaging rule and return the DOL policy to one that both reflects a modern approach to work arrangements and is widely supported by workers and businesses alike.

We thank you for standing with us to protect independent work for individuals who choose it and we stand ready to support your efforts. To learn more about CWI, please visit www.workforceinnovation.net

Sincerely,

Coalition for Workforce Innovation

¹ [CWI Comments to DOL](#)

² [CWI Survey of Independent Workers](#)

³ <https://www.mbopartners.com/state-of-independence/>

⁴ <https://liyapalagashvili.substack.com/p/a-deep-dive-into-our-study-on-californias>