

AFL-CIO

LEGISLATIVE ALERT

March 20, 2024

Dear Representative:

I am writing on behalf of the AFL-CIO to express our strong opposition to the CRA resolution challenging the newly effective Department of Labor's (DOL's) Independent Contractor rule and to urge you to vote no on the resolution.

The Independent Contractor rule, which took effect on March 11, 2024, would help end the employer practice of intentionally misclassifying workers as independent contractors to deprive them of their rights under the Fair Labor Standards Act, including the right to overtime pay and the minimum wage.

The DOL rule does two things: first it repeals the Trump DOL's 2021 Independent Contractor rule which emphasized only two factors as "core factors", and was substantially inconsistent with cases decided by various federal courts in FLSA litigation. Secondly, it replaces the 2021 rule with a flexible six-factor economic reality test which reflects the federal courts' precedent under the FLSA. The new rule is not a departure in any substantial way from multiple federal court decisions over the last 70 years.

Reversing the Trump era rule is imperative, as is the return to the long recognized standard for determining a worker's status under the FLSA. In addition, the new IC rule provides much needed regulatory guidance by addressing the multifactor economic reality test in a manner that accurately reflects the many decades of case law and DOL practice applying that test.

For these reasons, we urge you to vote against the CRA resolution that seeks to undo the final rule.

Sincerely,



William Samuel
Director, Government Affairs