119TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
119–422

SAVE LOCAL BUSINESS ACT

DECEMBER 30, 2025.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. WALBERG, from the Committee on Education and Workforce, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 4366]

The Committee on Education and Workforce, to whom was referred the bill (H.R. 4366) to clarify the treatment of 2 or more employers as joint employers under the National Labor Relations Act and the Fair Labor Standards Act of 1938, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Save Local Business Act".

SEC. 2. CLARIFICATION OF JOINT EMPLOYMENT.

(a) NATIONAL LABOR RELATIONS ACT AMENDMENTS.—Section 2(2) of the National Labor Relations Act (29 U.S.C. 152(2)) is amended—

(1) by striking "The term 'employer'" and inserting "(A) The term 'employer'"; and

(2) by adding at the end the following:

"(B) An employer may be considered a joint employer of the employees of another employer only if each employer directly, actually, and immediately, exercises significant control over the essential terms and conditions of employment of the employees of the other employer, such as hiring such employees, discharging such employees, determining the rate of pay and benefits of such employees, supervising such employees on a day-to-day basis, assigning such employees a work schedule, position, or task, or disciplining such employees.".

(b) FAIR LABOR STANDARDS ACT OF 1938 AMENDMENTS.—Section 3(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(d)) is amended—

(1) by striking "'Employer' includes" and inserting "(1) 'Employer' includes"; and

(2) by adding at the end the following:

"(2) An employer may be considered a joint employer of the employees of another employer for purposes of this Act only if each employer meets the criteria set forth in section 2(2)(B) of the National Labor Relations Act (29 U.S.C. 152(2)(B)) except that, for purposes of determining joint-employer status under this Act, the terms 'employee' and 'employer' referenced in such section shall have the meanings given such terms in this section.".

PURPOSE

To amend the *National Labor Relations Act* (NLRA) and the *Fair Labor Standards Act* (FLSA) to provide a commonsense standard for determining whether a joint employment relationship exists in order to provide clarity and consistency in this area of the law and to safeguard the independence of businesses, especially small businesses like franchisees and subcontractors.

COMMITTEE ACTION

113TH CONGRESS

Second Session—Hearings

On June 24, 2014, the Subcommittee on Health, Employment, Labor, and Pensions (HELP) held a hearing titled "What Should Workers and Employers Expect Next from the National Labor Relations Board?" Witnesses were Mr. Andrew F. Puzder, CEO, CKE Restaurants Holdings, Inc., Carpinteria, CA; Mr. Seth H. Borden, Partner, McKenna Long & Aldridge, New York, NY; Mr. James B. Coppess, Associate General Counsel, AFL–CIO, Washington, DC; and Mr. G. Roger King, Of Counsel, Jones Day, Columbus, OH. Witnesses discussed upcoming National Labor Relations Board (NLRB or Board) cases as well as Board policy and cited changes to the joint employer standard as one of the most significant and controversial issues before the Board.

On September 9, 2014, the HELP Subcommittee held a hearing titled "Expanding Joint Employer Status: What Does It Mean for Workers and Job Creators?" Witnesses were Mr. Todd Duffield, Shareholder, Ogletree, Deakins, Nash, Smoak & Stewart, Atlanta, GA; Mr. Clint Ehlers, President, FASTSIGNS of Lancaster and Willow Grove, Lancaster and Willow Grove, PA, testifying on behalf of the International Franchise Association; Mr. Harris Freeman, Professor, Western New England University School of Law, Springfield, MA; Ms. Catherine Monson, Chief Executive Officer, FASTSIGNS International, Inc., Carrollton, TX, testifying on behalf of the International Franchise Association; and Mrs. Jagruti Panwala, owner of hotel franchises, Bensalem, PA. Witnesses spoke about how an expanded joint employer standard would negatively impact franchises and other small businesses.

114TH CONGRESS

First Session—Hearings

On August 25, 2015, the HELP Subcommittee held a field hearing titled "Redefining 'Employer' and the Impact on Alabama's Workers and Small Business Owners" in Mobile, Alabama. Witnesses were Mr. Marcel Debruge, Burr and Forman LLP, Birmingham, AL; Mr. Chris Holmes, CEO, CLH Development Holdings, Tallahassee, FL; and Col. Steve Carey, Owner and Operator,

CertaPro Painters of Mobile and Baldwin Counties, Daphne, AL, testifying on behalf of the Coalition to Save Local Businesses and the International Franchise Association. Witnesses testified that the new joint employer standard would threaten the independence of small businesses in Alabama and deter franchisors from licensing new franchisees.

On August 27, 2015, the HELP Subcommittee held a field hearing titled "Redefining 'Employer' and the Impact on Georgia's Workers and Small Business Owners" in Savannah, Georgia. Witnesses were Mr. Jeffrey M. Mintz, Shareholder, Littler Mendelson, P.C., Atlanta, GA; Mr. Kalpesh "Kal" Patel, President and COO, Image Hotels, Inc., Pooler, GA; Mr. Alex Salguerio, Savannah Restaurants Corp., Savannah, GA; and Mr. Fred Weir, President, Meadowbrook Restaurant Company Inc., Cumming, GA, testifying on behalf of the Coalition to Save Local Businesses and the International Franchise Association. Witnesses testified the new joint employer standard would hurt small business growth in Georgia and create barriers to entry for potential franchise owners.

On September 29, 2015, the HELP Subcommittee held a legislative hearing on H.R. 3459 (114th Congress), the *Protecting Local Business Opportunity Act*. Witnesses were Mr. Ed Braddy, President, Winlee Foods, LLC, Timonium, MD, testifying on behalf of himself and the National Franchisee Association; Mr. Kevin Cole, CEO, Enniss Electric Company, Manassas, VA, testifying on behalf of the Independent Electrical Contractors; Mr. Charles Cohen, Senior Counsel, Morgan, Lewis & Bockius, LLP, Washington, DC; Ms. Mara Fortin, President and CEO, Nothing Bundt Cakes, San Diego, CA, testifying on behalf of herself and the Coalition to Save Local Businesses; Mr. Michael Harper, Professor, Boston University School of Law, Boston, MA; and Dr. Anne Lofaso, Professor, West Virginia University College of Law, Morgantown, WV. Witnesses testified that H.R. 3459 would restore the joint employer standard that had worked well for workers and business owners for decades and would protect opportunities for small business growth.

First Session—Legislative Action

On September 9, 2015, then-Committee on Education and the Workforce (Committee) Chairman John Kline (R–MN) introduced H.R. 3459 (114th Congress), the *Protecting Local Business Opportunity Act*, with Representatives David P. Roe (R–TN), Tim Walberg (R–MI), Virginia Foxx (R–VA), Todd Rokita (R–IN), Joe Wilson (R–SC), Hunter D. Duncan (R–CA), Glenn Thompson (R–PA), Matt Salmon (R–AZ), Brett Guthrie (R–KY), Lou Barletta (R–PA), Joseph J. Heck (R–NV), Luke Messer (R–IN), Bradley Byrne (R–AL), Earl L. "Buddy" Carter (R–GA), Mike Bishop (R–MI), Glenn Grothman (R–WI), Steve Russel (R–OK), Carlos Curbelo (R–FL), Rick W. Allen (R–GA), Steve Chabot (R–OH), Blaine Luetkemeyer (R–MO), Vicky Hartzler (R–MO), Jason Smith (R–MO), Cresent Hardy (R–NV), and Stephen Knight (R–CA) as original cosponsors. Recognizing the threat to small businesses posed by the NLRB's August 2015 decision in *Browning-Ferris Industries of California, Inc. (Browning-Ferris)*, the legislation amended the NLRA to restore the long-held standard that two or more employers can only be considered joint employers for purposes of the NLRA if each shares and exercises control over essential terms and

conditions of employment and such control over these matters is actual, direct and immediate.

On October 28, 2015, the Committee considered H.R. 3459 in legislative session and reported it favorably, as amended, to the House of Representatives by a recorded vote of 21–15. Representative Carter offered an amendment in the nature of a substitute, making a technical change, which was adopted by voice vote.

115TH CONGRESS

First Session—Hearings

On February 14, 2017, the HELP Subcommittee held a hearing titled "Restoring Balance and Fairness to the National Labor Relations Board." Witnesses criticized decisions of the NLRB during the Obama administration, including the expanded joint employer standard. Witnesses were Ms. Reem Aloul, BrightStar Care of Arlington, Arlington, VA, testifying on behalf of the Coalition to Save Local Businesses; Ms. Susan Davis, Partner, Cohen, Weiss and Simon, LLP, New York, NY; Mr. Raymond J. LaJeunesse, Jr., Vice President, National Right to Work Legal Defense and Education Foundation, Springfield, VA; and Mr. Kurt G. Larkin, Partner, Hunton & Williams LLP, Richmond, VA.

On July 12, 2017, the Committee held a hearing titled "Redefining Joint Employer Standards: Barriers to Job Creation and Entrepreneurship." Witnesses were Mr. Michael Harper, Professor, Boston University School of Law, Boston, MA; Mr. Richard Heiser, Vice President, FedEx Ground Package System, Inc., Chicago, IL; Mr. G. Roger King, Senior Labor and Employment Counsel, HR Policy Association, Washington, DC; Mr. Jerry Reese II, Director of Franchise Development, Dat Dog, New Orleans, LA, testifying on behalf of the Coalition to Save Local Businesses; Ms. Catherine K. Ruckelhaus, General Counsel, National Employment Law Project, New York, NY; and Ms. Mary Kennedy Thompson, Chief Operating Officer of Franchise Brands, Dwyer Group, Waco, TX, testifying on behalf of the International Franchise Association. Witnesses testified about the importance of reigning in expanded joint employer standards.

On September 13, 2017, the HELP and Workforce Protections subcommittees held a joint legislative hearing on H.R. 3441 (115th Congress), the *Save Local Business Act*. Witnesses were Mr. Zachary D. Fasman, Partner, Proskauer Rose LLP, New York, NY; Ms. Tamra Kennedy, President, Twin Cities T.J.'s Inc., Roseville, MN, testifying on behalf of the Coalition to Save Local Businesses; Mr. Granger MacDonald, Chief Executive Officer, The MacDonald Companies, Kerrville, TX, testifying on behalf of the National Association of Home Builders; and Mr. Michael Rubin, Partner, Altshuler Berzon LLP, San Francisco, CA. Witnesses testified that H.R. 3441 clarifies the joint employer standard used under both the NLRA and the FLSA and benefits workers and business owners.

First Session—Legislative Action

On July 27, 2017, then-Subcommittee on Workforce Protections Chairman Bradley Byrne (R–AL) introduced H.R. 3441, the *Save Local Business Act*, with 29 original cosponsors. The bill amended the NLRA and the FLSA to provide that two or more employers

can only be considered joint employers if each shares and exercises control over essential terms and conditions of employment and if such control over those matters is actual, direct, and immediate.

On October 4, 2017, the Committee considered H.R. 3441 in legislative session and reported it favorably, as amended, to the House of Representatives by a recorded vote of 23–17. Representative Byrne offered an amendment in the nature of a substitute, making technical changes. The amendment was adopted by voice vote. On November 7, 2017, H.R. 3441 passed the House of Representatives by a recorded vote of 242–181.

117TH CONGRESS

Legislative Action

On May 13, 2021, Representative James Comer (R–KY) introduced H.R. 3185 (117th Congress), the *Save Local Business Act*, with 54 original cosponsors. The bill set the standard by which a worker may be considered employed by a joint employer under the NLRA and the FLSA.

118TH CONGRESS

First Session—Hearing

On December 11, 2023, the HELP Subcommittee held a hearing titled "Protecting Workers and Small Businesses from Biden's Attack on Worker Free Choice and Economic Growth" to examine solutions to protect small businesses, including regarding the joint-employer standard. Witnesses were Mr. G. Roger King, Senior Labor and Employment Counsel, HR Policy Association, Washington, DC; Mr. Matthew Haller, President and CEO, International Franchise Association, Washington, DC; Mr. F. Vincent Vernuccio, President, Institute for the American Worker, Hamilton, VA; and Mr. Richard Griffin, Of Counsel, Bredhoff and Kaiser, Washington, DC.

First Session—Legislative Action

On April 25, 2023, Representative James Comer (R–KY) introduced H.R. 2826 (118th Congress), the *Save Local Business Act*, with 61 original cosponsors. The bill set the standard by which a worker may be considered employed by a joint employer under the NLRA and the FLSA.

On November 9, 2023, Representative John James (R–MI) introduced H.J. Res. 98 (118th Congress), *Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the National Labor Relations Board relating to "Standard for Determining Joint Employer Status",* with Representatives Virginia Foxx (R–NC), Mike Johnson (R–LA), Jim Banks (R–IN), Aaron Bean (R–FL), Earl L. "Buddy" Carter (R–GA), Tom Cole (R–OK), James Comer (R–KY), Eric A. "Rick" Crawford (R–AR), Jeff Duncan (R–SC), Scott Fitzgerald (R–WI), Bob Good (R–VA), Lance Gooden (R–TX), Diana Harshbarger (R–TN), Clay Higgins (R–LA), Ashley Hinson (R–IA), Erin Houchin (R–IN), Jake LaTurner (R–KS), Julia Letlow (R–LA), Lisa C. McClain (R–MI), John R. Moolenaar (R–MI), Alexander X. Mooney (R–WV), Greg Pence (R–IN), John W. Rose (R–TN), Adrian Smith (R–NE), Michelle Steel (R–CA), Glenn Thompson (R–PA), Tim Walberg (R–

MI), Elise M. Stefanik (R–NY), and David G. Valadao (R–CA). H.J. Res. 98 was a *Congressional Review Act* resolution of disapproval to overturn the NLRB's 2023 joint employer rule. On December 12, 2023, the Committee considered H.J. Res. 98 in legislative session and reported it favorably to the House of Representatives by a recorded vote of 25–20.

Second Session—Legislative Action

On January 12, 2024, H.J. Res. 98 passed the House of Representatives by a recorded vote of 206–177.

119TH CONGRESS

First Session—Hearing

On June 11, 2025, the HELP Subcommittee held a hearing titled "Restoring Balance: Ensuring Fairness and Transparency at the NLRB," which examined the NLRB's joint-employer standard, among other topics. Witnesses were Mr. G. Roger King, Senior Labor and Employment Counsel, HR Policy Association, Washington, DC; Mr. F. Vincent Vernuccio, President, Institute for the American Worker, Hamilton, VA; Mr. Aaron Solem, Staff Attorney, National Right to Work Legal Defense Foundation, Springfield, VA; and Ms. Jennifer Abruzzo, Senior Advisor to the President, Communication Workers of America, Washington DC.

First Session—Legislative Action

On July 14, 2025, Representative James Comer (R–KY) introduced H.R. 4366, the *Save Local Business Act*, which sets the standard by which a worker may be considered employed by a joint employer under the NLRA and the FLSA. On July 23, 2025, the Committee considered H.R. 4366 in legislative session and reported it favorably, as amended, to the House of Representatives by a vote of 20–16. The Committee considered the following amendments to H.R. 4366:

1. Representative Robert F. Onder (R–MO) offered an amendment in the nature of a substitute, making technical changes to the bill. The Committee adopted the amendment by voice vote.

2. Representative Alma S. Adams (D–NC) offered an amendment to prevent the provision in the bill amending the definition of employer under the FLSA from coming into effect in cases of unlawful child labor under the FLSA. The amendment failed by a recorded vote of 16–20.

COMMITTEE VIEWS

INTRODUCTION

The joint-employer standard can impact any business that contracts with another business, such as franchisors and franchisees, contractors and subcontractors, suppliers, and other corners of the economy. The test for determining when two or more entities are to be considered joint employers has fluctuated with presidential administrations for the last decade, sowing chaos for job creators. During the first Trump administration, the NLRB and the Department of Labor (DOL) reversed disastrous Obama-era policies and promulgated commonsense rules that limited liability for job cre-

ators.[1] However, the Biden NLRB replaced the first Trump administration NLRB's joint-employer final rule, destabilizing this area of the law again. Because the NLRA currently only defines "employer" and does not include a definition for "joint employer," each iteration of the Board can adopt its own standard, subjecting America's workforce to the political winds of the moment. H.R. 4366, *the Save Local Business Act,* would calm this area of the law and allow small business owners to start and grow their businesses in peace.

THE NLRB JOINT EMPLOYER STANDARD

The NLRA's purpose is to protect the rights of most private-sector employees to organize and collectively bargain with their employers, or to refrain from those activities; to minimize industrial strife; and to curtail certain behaviors of labor and management deemed harmful to the general welfare of workers, businesses, and the economy overall.[2] The NLRB is an independent federal agency established by the NLRA to fulfill two principal functions: (1) to determine whether employees wish to be represented by a union and (2) to prevent and remedy employer and union unlawful acts, called unfair labor practices (ULPs).

From 1984 to 2015, the NLRB determined whether two separate entities should be considered joint employers by analyzing whether the entities shared control over or co-determined the essential terms and conditions of employment.[3] Essential terms and conditions of employment could include hiring, firing, discipline, supervision, and direction of employees. Prior to 2015, each entity's control over these employment matters needed to be "actual, direct, and immediate" for the Board to find two or more entities to be joint employers.[4]

In 2015, the NLRB issued its decision in *Browning-Ferris Industries*, radically revising the joint employer standard.[5] Under this standard, companies sharing indirect or potential control over another entity's workforce may be considered joint employers.[6] Practically, an entity could be held liable for the decisions of another entity—whether or not the first entity was even aware of the second entity's decisions and activities.

During the first Trump administration, the NLRB promulgated a rule restoring the historic, direct-control, joint-employer standard and effectively overruled *Browning-Ferris*.[7] In 2023, however, the Biden NLRB issued a final rule of its own, establishing its standard for determining joint-employer status under the NLRA,[8] largely reviving the Obama-era *Browning-Ferris* standard.[9] The 2023

---

[1] Joint Employer Status Under the National Labor Relations Act, 85 Fed. Reg. 11,184 (Feb. 26, 2020); Joint Employer Status under the Fair Labor Standards Act, 86 Fed. Reg. 40,939 (Jan. 16, 2020).

[2] *See* 29 U.S.C. § 151.

[3] TLI, Inc., 271 NLRB 798, 798–99 (1984), *overruled by* Browning-Ferris Indus. (BFI), 362 NLRB No. 186 (2015).

[4] *See* Airborne Express, 338 NLRB 597, 597 n.1 (2002) ("[The] essential element in [joint employer] analysis is whether a putative joint employer's control over employment matters is direct and immediate."); AM Prop. Holding Corp., 350 NLRB 998, 1000 (2007) ("In assessing whether a joint employer relationship exists, the Board . . . looks to the actual practice of the parties.").

[5] BFI, 362 NLRB No. 186 (2015).

[6] *Id.*

[7] Joint Employer Status Under the National Labor Relations Act, 85 Fed. Reg. 11,184 (Feb. 26, 2020).

[8] Standard for Determining Joint-Employer Status, 88 Fed. Reg. 53,946 (Oct. 27, 2023).

[9] BFI, 362 NLRB No. 186 (2015).

Biden rule rescinded and replaced the Trump NLRB's joint-employer rule which had refocused the Board's analysis on the company's "direct and immediate control" of employees.[10]

Under the 2023 Biden NLRB rule, a joint-employer relationship is established when employers codetermine, whether directly or *indirectly*, employees' essential terms and conditions of employment.[11] In other words, under the Biden NLRB rule, an entity can be considered a joint employer even if it does not *actually* control the employees involved. Any entity that exercises or even reserves the right to exercise control, even indirect control, over at least one essential term of employment is a joint employer under this rule. As a practical matter, the 2023 Biden NLRB rule treats most entities that contract for labor as joint employers because nearly every contract for third-party labor includes terms that bear on at least one of the specified essential terms and conditions of employment. This sweeping joint-employer rule was vacated by a Texas federal district court in March 2024, causing even more uncertainty for businesses.[12] In July 2024, the NLRB withdrew its appeal of the district court's decision vacating the Biden NLRB rule.[13]

THE JOINT EMPLOYER STANDARD UNDER THE FLSA

The FLSA is the primary federal statute establishing standards for minimum wage, overtime pay, child labor, recordkeeping, and other wage-and-hour standards covering over 140 million individuals, including most private and public-sector employees.[14] Congress delegates authority to DOL to interpret the FLSA via regulations, but state wage-and-hour laws are not preempted by the FLSA provided the states' laws are more protective of employees.[15] The FLSA also provides for enforcement actions by DOL and private litigation brought by employees against employers. The resulting decisions of federal courts also shape the law.

The threat of sweeping joint employer standards under the FLSA was addressed by Mr. Zachary Fasman, Partner at Proskauer Rose, LLP, when he testified before the HELP Subcommittee in 2017. Describing the legal landscape, Mr. Fasman noted:

> While there have been numerous decisions on joint employer status under the FLSA, there is no commonly accepted test for joint employer liability under the statute. Some courts rely upon a four factor "economic reality" test; others add as many as six or eight factors to that test, others consider whether the putative joint employer can discipline or discharge an employee, while new and novel—and different—tests continue to arise in federal courts across the country. Employers with multi-state operations have no idea what standards will apply to their operations, or when they may be held responsible—after the fact, if

[10] Joint Employer Status Under the National Labor Relations Act, 85 Fed. Reg. 11,184 (Feb. 26, 2020).
[11] Standard for Determining Joint Employer Status, 88 Fed. Reg. 73,946 (Oct. 27, 2023).
[12] Chamber of Com. of U.S. v. NLRB, 723 F. Supp. 3d 498 (E.D. Tex. 2024).
[13] https://news.bloomberglaw.com/daily-labor-report/labor-board-abandons-bid-to-revive-joint-employer-regulation.
[14] 29 U.S.C. §§ 201–262.
[15] *Id.* § 218.

> the NLRB's Browning-Ferris standards are applied—for another employer's wage and payroll practices.[16]

Because the FLSA, like the NLRA, currently only defines the term "employer" and not "joint employer," federal courts have developed various tests for determining whether two entities have a joint-employer relationship under the FLSA. H.R. 4366 will bring uniformity to this body of law and give business owners the confidence they need to start and expand their enterprises across state lines without fear.

CONSEQUENCES OF BROAD, SHIFTING JOINT-EMPLOYER STANDARDS

Mr. Vincent Vernuccio, President of the Institute for the American Worker, testified before the HELP Subcommittee on June 11, 2025, about the pernicious effects of the shifting legal standards for determining joint-employer status:

> The constant legal whiplash has created significant instability for employers, especially small businesses, and workers. Businesses now face uncertainty over when they might be held liable for workers they do not hire, supervise, or compensate—making it harder to confidently enter partnerships, grow, or invest in workforce development. Industries that rely on franchising, subcontracting, or staffing are particularly vulnerable.[17]

Mr. Kevin Cole, CEO of Ennis Electric Company, Inc., testifying on behalf of the Independent Electrical Contractors, told the HELP Subcommittee about the far-reaching effects of a broad joint-employer rule on electrical contracting:

> Moving forward, almost any contractual relationship we enter into may trigger a finding of a joint employer status that would make us liable for the employment and labor actions of our subcontractors, vendors, suppliers, and staffing firms. In addition, as we understand it, the new standard would also expose my company to another company's collective bargaining obligations and economic protest activity, to include strikes, boycotts, and picketing.[18]

Nowhere do the broad and shifting joint employer standards do more harm than in the context of the franchise industry. In his testimony to the HELP Subcommittee on December 13, 2023, Mr. Matthew Haller, President of the International Franchise Association (IFA), described the franchise model:

> A franchisee is first a local business, distinguished from other local businesses because it licenses the branding and operational processes of a franchisor, or brand company, while operating independently in a set location. The fran-

---

[16] *The Save Local Business Act: Hearing on H.R. 3441 Before the Subcomm. on Health, Emp., Lab., & Pensions and the Subcomm. on Workforce Protections of the H. Comm. on Educ. & the Workforce,* 115th Cong. 54 (2017) (statement of Zachary D. Fasman, Partner, Proskauer Rose, LLP).

[17] *Restoring Balance: Ensuring Fairness and Transparency at the NLRB: Hearing Before the Subcomm. on Health, Emp., Lab. & Pensions of the H. Comm. on Educ. & Workforce,* 119th Cong. (2025) (written statement of F. Vincent Vernuccio, President, Inst. for the Am. Worker, at 11).

[18] *H.R. 3459, "Protecting Local Business Opportunity Act": Hearing Before the Subcomm. on Health, Emp., Lab. & Pensions of the H. Comm. on Educ. & the Workforce,* 114th Cong. 52 (2015) (statement of Kevin R. Cole, Chief Exec. Officer, Ennis Electric Co.).

> chise model provides a smoother path to entrepreneurship than developing an independent business, with franchisors sharing confidential and proprietary information regarding site selection and development strategies, training programs and branding campaigns to facilitate faster speed to market for franchisees in addition to providing continuing operational support throughout the long-term franchise relationship. The local owner, or franchisee, is responsible for hiring staff, organizing schedules, managing payroll and all daily operational tasks—and critically, creating a distinct company culture and direct relationship with employees—as well as local sales and marketing. The value of franchising lies in a strategic balance in the relationship between a franchisor and franchisee: the independence of a franchisee to manage its day-to-day operations and connections with its employees, consumers, and the local community. The franchise business model gives aspiring small business owners head starts toward becoming their own boss, with a proven business model that can set up new business owners for success and easier access to lines of credit than a traditional business.[19]

The joint-employer standard under *Browning-Ferris* caused significant operational and economic harm to both franchisors and franchisees. While the *Browning-Ferris* standard was in effect, an economic analysis found the decision cost the franchising sector $33.3 billion annually, resulting in as many as 376,000 lost job opportunities.[20]

When the Biden NLRB in 2023 reversed the Trump joint-employer rule and brought back the *Browning-Ferris* standard, job creators felt the negative effects. Mr. Haller testified:

> Without question, the biggest threat to the strength of franchise relationships, sustainability of the franchise model and future of the entire franchising community—including franchisees, franchisors, suppliers to franchise systems, and the hundreds of thousands of workers they employ and consumers they serve—is the NLRB's unnecessary joint employer rule, which was finalized in October 2023 and is scheduled to take effect in February 2024.[21]

Mr. Haller went on to testify about the practical implications of a broad joint-employer standard for job creators and business owners:

> A "joint employer" finding under the NLRA carries with it dramatic and significant consequences. A joint employer may be held liable for unfair labor practices (ULPs) committed by an unrelated company, even where the first had no control over the actions of the second leading to the ULP. A joint employer is subject to secondary activity,

---

[19] *Protecting Workers and Small Businesses from Biden's Attack on Worker Free Choice and Economic Growth: Hearing Before the Subcomm. on Health, Emp., Lab. & Pensions of the H. Comm. on Educ. & the Workforce*, 118th Cong. 49 (2023) (statement of Matthew Haller, President & CEO, Int'l Franchise Ass'n).

[20] RONALD BIRD, STATEMENT REGARDING THE ECONOMIC IMPACT OF THE PROSPECTIVE NLRB PUBLIC POLICY DECISION REGARDING THE DEFINITION OF JOINT EMPLOYER 2 (2019), https://www.franchise.org/sites/default/files/2019-05/JE%20Econ%20Impact%200128.pdf.

[21] Haller statement, *supra* note 18, at 53.

> such as boycotting and picketing, which would otherwise be unlawful. Finally, and perhaps most significant, a joint employer (or dozens of joint employers) may be required to bargain with a union over any term or condition of employment over which it exercises (or reserves the right to exercise) even a modicum of control—a set of facts certain to frustrate any effort to reach agreement at the bargaining table.[22]

Under the Biden NLRB joint-employer standard, franchisors have several choices with respect to how they build and maintain relationships with their franchisees. First, they can become more involved in the day-to-day operations of their franchisees, treating them more like employees, in order to reduce the likelihood that they will be liable for the actions of their franchisees. This will destroy the freedom and opportunity of franchisees to run their small businesses, ultimately destroying the character of the franchise model. Second, franchisors may have to increase the fees they charge franchisees in order to offset the potential costs of increased liability for franchisees' actions. This will also raise the barrier to entry for Americans who want to run their own businesses because it requires more resources to start the business. Finally, franchisors could choose to withdraw much of the support they offer to franchisees in order to reduce the likelihood they will be found to be a joint employer of the franchisees' employees.[23] This result would also be devastating to the franchise model because it is the support from a franchisor that reduces the risk a small business owner faces when starting his or her own business.

Without a consistent, predictable, and clear joint-employer standard, small business suffer and many Americans who might otherwise start a business or expand their existing businesses are not able to do so because of the mounting costs brought on by the legal uncertainty. Fewer businesses results in fewer jobs, but the ripple effect of a confusing legal landscape goes further. Only Congress can bring the kind of stability that will foster a flourishing American economy and protect it from the changing views of the NLRB and the DOL.

CONCLUSION

H.R. 4366 restores the joint-employer standard that workers and employers relied on for decades before the Obama and Biden NLRBs put union interests above those of workers and small business owners. H.R. 4366 codifies what had been the rule for most of the last 40 years: two or more entities must have actual, direct, and immediate control over workers to be considered their employers. Without H.R. 4366, the patchwork of joint-employer standards under the FLSA, created by various courts across the country, will continue to grow and exacerbate the regulatory confusion for job creators trying to run businesses in multiple states. Syncing the joint-employer definitions in the FLSA and the NLRA brings necessary clarity and stability to the law.

H.R. 4366 is an appropriate response to the repeated and misguided efforts of an NLRB captured by union interests. The bill

---

[22] *Id.*
[23] *Id.* at 55.

maintains existing worker protections while correcting a confusing and partisan joint-employer scheme that makes it harder for Americans to start and grow their businesses. The bill rightly makes the actual employer legally responsible for protecting workers and complying with the law.

H.R. 4366 SECTION-BY-SECTION SUMMARY

Section 1. Provides that the short title is the "Save Local Business Act."

Section 2. Amends the NLRA to allow two or more employers to be considered joint employers if each employer directly, actually, and immediately exercises significant control over the essential terms and conditions of employment of the employees of the other employer. Essential terms and conditions of employment include hiring employees; discharging them; determining their rate of pay and benefits; supervising them on a day-to-day basis; assigning them a work schedule, position, or task; or discipling them.

Section 3. Amends the FLSA to allow two or more employers to be considered joint employers for purposes of the FLSA under the same criteria as set forth in section 2 of H.R. 4366 amending the NLRA.

EXPLANATION OF AMENDMENTS

The amendments, including the amendment in the nature of a substitute, are explained in the body of this report.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch. H.R. 4366 clarifies the standard for determining whether an entity is a joint employer, including for eligible employees of the legislative branch.

UNFUNDED MANDATE STATEMENT

Pursuant to Section 423 of the Congressional Budget and Impoundment Control Act of 1974, Pub. L. No. 93–344 (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act of 1995, Pub. L. No. 104–4), the Committee traditionally adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office (CBO) pursuant to section 402 of the Congressional Budget and Impoundment Control Act of 1974. The Committee reports that because this cost estimate was not timely submitted to the Committee before the filing of this report, the Committee is not in a position to make a cost estimate for H.R. 4366.

EARMARK STATEMENT

H.R. 4366 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of House rule XXI.

ROLL CALL VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee Report to include for each record vote on a motion to report the measure or matter and on any amend-

ments offered to the measure or matter the total number of votes for and against and the names of the Members voting for and against.

Date: 07/23/2025

COMMITTEE ON EDUCATION AND WORKFORCE RECORD OF COMMITTEE VOTE

Roll Call:7 Bill: H.R. 4366 Amendment Number:529

Disposition: Rejected by a Full Committee Roll Call Vote (16y-20n))

Sponsor/Amendment: Rep. Adams
ADAMNC_529

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. WALBERG (MI) (Chairman)		X		Mr. SCOTT (VA) (Ranking)	X		
Mr. WILSON (SC)		X		Mr. COURNTEY (CT))	X		
Mrs. FOXX (NC)		X		Ms. WILSON (FL)	X		
Mr. THOMPSON (PA)		X		Ms. BONAMICI (OR)	X		
Mr. GROTHMAN (WI)		X		Mr. TAKANO (CA))	X		
Ms. STEFANIK (NY)			X	Ms. ADAMS (NC)	X		
Mr. ALLEN (GA)		X		Mr. DESAULNIER (CA)	X		
Mr. COMER (KY)		X		Mr. NORCROSS (NJ)	X		
Mr. OWENS (UT)		X		Ms. MCBATH (GA)	X		
Ms. MCCLAIN (MI)		X		Ms. HAYES (CT)	X		
Mrs. MILLER (IL)		X		Ms. OMAR (MN)	X		
Ms. LETLOW (LA)		X		Ms. STEVENS (MI)	X		
Mr. KILEY (CA)		X		Mr. CASAR (TX)	X		
Mr. RULLI (OH)		X		Ms. LEE (PA)	X		
Mr. MOYLAN (GU)		X		Mr. MANNION (NY)	X		
Mr. ONDER (MO)		X		Ms. ANSARI (AZ)	X		
Mr. MACKENZIE (PA)		X					
Mr. BAUMGARTNER (WA)		X					
Mr. HARRIS (NC)		X					
Mr. MESSMER (IN)		X					
Mr. FINE (FL)		X					

TOTALS: Ayes: 16 Nos: 20 Not Voting: 1

Total: 37 / Quorum: 36 / Report: Failed

(21 R - 16 D)

Date: 07/23/2025

COMMITTEE ON EDUCATION AND WORKFORCE RECORD OF COMMITTEE VOTE

Roll Call:8 Bill: H.R. 4366 Amendment Number: N/A

Disposition: Adopted by a Full Committee Roll Call Vote (20y-16n)

Sponsor/Amendment: Rep. Onder

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. WALBERG (MI) (Chairman)	X			Mr. SCOTT (VA) (Ranking)		X	
Mr. WILSON (SC)	X			Mr. COURNTEY (CT))		X	
Mrs. FOXX (NC)	X			Ms. WILSON (FL)		X	
Mr. THOMPSON (PA)	X			Ms. BONAMICI (OR)		X	
Mr. GROTHMAN (WI)	X			Mr. TAKANO (CA))		X	
Ms. STEFANIK (NY)			X	Ms. ADAMS (NC)		X	
Mr. ALLEN (GA)	X			Mr. DESAULNIER (CA)		X	
Mr. COMER (KY)	X			Mr. NORCROSS (NJ)		X	
Mr. OWENS (UT)	X			Ms. MCBATH (GA)		X	
Ms. MCCLAIN (MI)	X			Ms. HAYES (CT)		X	
Mrs. MILLER (IL)	X			Ms. OMAR (MN)		X	
Ms. LETLOW (LA)	X			Ms. STEVENS (MI)		X	
Mr. KILEY (CA)	X			Mr. CASAR (TX)		X	
Mr. RULLI (OH)	X			Ms. LEE (PA)		X	
Mr. MOYLAN (GU)	X			Mr. MANNION (NY)		X	
Mr. ONDER (MO)	X			Ms. ANSARI (AZ)		X	
Mr. MACKENZIE (PA)	X						
Mr. BAUMGARTNER (WA)	X						
Mr. HARRIS (NC)	X						
Mr. MESSMER (IN)	X						
Mr. FINE (FL)	X						

TOTALS: Ayes: 20 Nos: 16 Not Voting: 1

Total: 37 / Quorum: 36 Report: Passed

(21 R - 16 D)

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause (3)(c) of House of Representatives rule XIII, the goal of H.R. 4366, the *Save Local Business Act*, is to amend the *National Labor Relations Act* (NLRA) and the *Fair Labor Standards Act* (FLSA) to provide a commonsense standard for determining whether a joint employment relationship exists in order to provide clarity and consistency in this area of the law and to safeguard the independence of businesses, especially small businesses like franchisees and subcontractors.

DUPLICATION OF FEDERAL PROGRAMS

No provision of H.R. 4366 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the body of this report.

REQUIRED COMMITTEE HEARING

In compliance with clause 3(c)(6) of rule XIII of the Rules of the House of Representatives the following hearing held during the 119th Congress was used to develop or consider H.R. 4366: On June 11, 2025, the Subcommittee on Health, Employment, Labor, and Pensions held a hearing on "Restoring Balance: Ensuring Fairness and Transparency at the NLRB."

NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, a cost estimate was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the Congressional Record upon its receipt by the Committee.

COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 4366. However, clause 3(d)(2)(B) of that Rule provides that this requirement does not apply when, as with the present report, the Committee has requested a cost estimate for the bill from the Director of the Congressional Budget Office.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

NATIONAL LABOR RELATIONS ACT

* * * * * * *

DEFINITIONS

SEC. 2. When used in this Act—

(1) The term "person" includes one or more individuals, labor organizations, partnerships, associations, corporations, legal representatives, trustees, trustees in cases under title 11 of the United States Code, or receivers.

(2) [The term "employer"] *(A) The term "employer"* includes any person acting as an agent of an employer, directly or indirectly, but shall not include the United States or any wholly owned Government corporation, or any Federal Reserve Bank, or any State or political subdivision thereof, or any person subject to the Railway Labor Act, as amended from time to time, or any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization.

(B) An employer may be considered a joint employer of the employees of another employer only if each employer directly, actually, and immediately, exercises significant control over the essential terms and conditions of employment of the employees of the other employer, such as hiring such employees, discharging such employees, determining the rate of pay and benefits of such employees, supervising such employees on a day-to-day basis, assigning such employees a work schedule, position, or task, or disciplining such employees.

(3) The term "employee" shall include any employee, and shall not be limited to the employees of a particular employer, unless the Act explicitly states otherwise, and shall include any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice, and who has not obtained any other regular and substantially equivalent employment, but shall not include any individual employed as an agricultural laborer, or in the domestic service of any family or person at his home, or any individual employed by his parent or spouse, or any individual having the status of an independent contractor, or any individual employed as a supervisor, or any individual employed by an employer subject to the Railway Labor Act, as amended from time to time, or by any other person who is not an employer as herein defined.

(4) The term "representatives" includes any individual or labor organization.

(5) The term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose,

in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(6) The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia or any Territory of the United States and any State or other Territory, or between any foreign country and any State, Territory, or the District of Columbia, or within the District of Columbia or any Territory, or between points in the same State but through any other State or any Territory or the District of Columbia or any foreign country.

(7) The term "affecting commerce" means in commerce, or burdening or obstructing commerce or the free flow of commerce, or having led or tending to lead to a labor dispute burdening or obstructing commerce or the free flow of commerce.

(8) The term "unfair labor practice" means any unfair labor practice listed in section 8.

(9) The term "labor dispute" includes any controversy concerning terms, tenure or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

(10) The term "National Labor Relations Board" means the National Labor Relations Board provided for in section 3 of this Act.

(11) The term "supervisor" means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(12) The term "professional employee" means—

(a) any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes; or

(b) any employee, who (i) has completed the courses of specialized intellectual instruction and study described in clause (iv) of paragraph (a), and (ii) is performing related work under the supervision of a professional person to qualify himself to become a professional employee as defined in paragraph (a).

(13) In determining whether any person is acting as an "agent" of another person so as to make such other person responsible for his acts, the question of whether the specific acts performed were

actually authorized or subsequently ratified shall not be controlling.

(14) The term "health care institution" shall include any hospital, convalescent hospital, health maintenance organization, health clinic, nursing home, extended care facility, or other institution devoted to the care of sick, infirm, or aged person.

* * * * * * *

FAIR LABOR STANDARDS ACT OF 1938

* * * * * * *

DEFINITIONS

SEC. 3. As used in this Act—

(a) "Person" means an individual, partnership, association, corporation, business trust, legal representative, or any organized group of persons.

(b) "Commerce" means trade, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof.

(c) "State" means any State of the United States or the District of Columbia or any Territory or possession of the United States.

(d) ["Employer" includes] *(1) "Employer" includes* any person acting directly or indirectly in the interest of an employer in relation to an employee and includes a public agency, but does not include any labor organization (other than when acting as an employer) or anyone acting in the capacity of officer or agent of such labor organization.

(2) An employer may be considered a joint employer of the employees of another employer for purposes of this Act only if each employer meets the criteria set forth in section 2(2)(B) of the National Labor Relations Act (29 U.S.C. 152(2)(B)) except that, for purposes of determining joint-employer status under this Act, the terms "employee" and "employer" referenced in such section shall have the meanings given such terms in this section.

(e)(1) Except as provided in paragraphs (2), (3), and (4), the term "employee" means any individual employed by an employer.

(2) In the case of an individual employed by a public agency, such term means—

(A) any individual employed by the Government of the United States—

(i) as a civilian in the military departments (as defined in section 102 of title 5, United States Code),

(ii) in any executive agency (as defined in section 105 of such title),

(iii) in any unit of the judicial branch of the Government which has positions in the competitive service,

(iv) in a nonappropriated fund instrumentality under the jurisdiction of the Armed Forces,

(v) in the Library of Congress, or

(vi) the Government Printing Office;

(B) any individual employed by the United States Postal Service or the Postal Rate Commission; and

(C) any individual employed by a State, political subdivision of a State, or an interstate governmental agency, other than such an individual—

(i) who is not subject to the civil service laws of the State, political subdivision, or agency which employs him; and

(ii) who—

(I) holds a public elective office of that State, political subdivision, or agency,

(II) is selected by the holder of such an office to be a member of his personal staff,

(III) is appointed by such an officeholder to serve on a policymaking level,

(IV) is an immediate adviser to such an officeholder with respect to the constitutional or legal powers of his office, or

(V) is an employee in the legislative branch or legislative body of that State, political subdivision, or agency and is not employed by the legislative library of such State, political subdivision, or agency.

(3) For purposes of subsection (u), such term does not include any individual employed by an employer engaged in agriculture if such individual is the parent, spouse, child, or other member of the employer's immediate family.

(4)(A) The term "employee" does not include any individual who volunteers to perform services for a public agency which is a State, a political subdivision of a State, or an interstate governmental agency, if—

(i) the individual receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered; and

(ii) such services are not the same type of services which the individual is employed to perform for such public agency.

(B) An employee of a public agency which is a State, political subdivision of a State, or an interstate governmental agency may volunteer to perform services for any other State, political subdivision, or interstate governmental agency, including a State, political subdivision or agency with which the employing State, political subdivision, or agency has a mutual aid agreement.

(5) The term "employee" does not include individuals who volunteer their services solely for humanitarian purposes to private nonprofit food banks and who receive from the food banks groceries.

(f) "Agriculture" includes farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in section 15(g) of the Agricultural Marketing Act, as amended), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.

(g) "Employ" includes to suffer or permit to work.

(h) "Industry" means a trade, business, industry, or other activity, or branch or group thereof, in which individuals are gainfully employed.

(i) "Goods" means goods (including ships and marine equipment), wares, products, commodities, merchandise, or articles or subjects of commerce of any character, or any part or ingredient thereof, but does not include goods after their delivery into the actual physical possession of the ultimate consumer thereof other than a producer, manufacturer, or processor thereof.

(j) "Producer" means produced, manufactured, mined, handled, or in any manner worked on in any State; and for the purposes of this Act an employee shall be deemed to have been engaged in the production of goods if such employee was employed in producing, manufacturing, mining, handling, transporting, or in any other manner working on such goods, or in any closely related process or occupation directly essential to the production thereof, in any State.

(k) "Sale" or "sell" includes any sale, exchange, contract to sell, consignment for sale, shipment for sale, or other disposition.

(l) "Oppressive child labor" means a condition of employment under which (1) any employee under the age of sixteen years is employed by an employer (other than a parent or a person standing in place of a parent employing his own child or a child in his custody under the age of sixteen years in an occupation other than manufacturing or mining or an occupation found by the Secretary of Labor to be particularly hazardous for the employment of children between the ages of sixteen and eighteen years or detrimental to their health or well-being) in any occupation, or (2) any employee between the ages of sixteen and eighteen years is employed by an employer in any occupation which the Secretary of Labor shall find and by order declare to be particularly hazardous for the employment of children between such ages or detrimental to their health or well-being; but oppressive child labor shall not be deemed to exist by virture of the employment in any occupation of any person with respect to whom the employer shall have on file an unexpired certificate issued and held pursuant to regulations of the Secretary of Labor certifying that such person is above the oppressive child labor age. The Secretary of Labor shall provide by regulation or by order that the employment of employees between the ages of fourteen and sixteen years in occupations other than manufacturing and mining shall not be deemed to constitute oppressive child labor if and to the extent that the Secretary of Labor determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being.

(m)(1) "Wage" paid to any employee includes the reasonable cost, as determined by the Secretary of Labor, to the employer of furnishing such employee with board, lodging, or other facilities, if such board, lodging, or other facilities are customarily furnished by such employer to his employees: *Provided,* That the cost of board, lodging, or other facilities shall not be included as a part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective-bargaining agreement applicable to the particular employee: *Provided further,* That the Secretary is authorized to determine the fair value of such board, lodging, or other facilities for defined classes of employees and in de-

fined areas, based on average cost to the employer or to groups of employers similarly situated, or average value to groups of employees, or other appropriate measures of fair value. Such evaluations, where applicable and pertinent, shall be used in lieu of actual measure of cost in determining the wage paid to any employee.

(2)(A) In determining the wage an employer is required to pay a tipped employee, the amount paid such employee by the employee's employer shall be an amount equal to—

(i) the cash wage paid such employee which for purposes of such determination shall be not less than the cash wage required to be paid such an employee on the date of the enactment of this paragraph; and

(ii) an additional amount on account of the tips received by such employee which amount is equal to the difference between the wage specified in clause (i) and the wage in effect under section 6(a)(1).

The additional amount on account of tips may not exceed the value of the tips actually received by an employee. The preceding 2 sentences shall not apply with respect to any tipped employee unless such employee has been informed by the employer of the provisions of this subsection, and all tips received by such employee have been retained by the employee, except that this subsection shall not be construed to prohibit the pooling of tips among employees who customarily and regularly receive tips.

(B) An employer may not keep tips received by its employees for any purposes, including allowing managers or supervisors to keep any portion of employees' tips, regardless of whether or not the employer takes a tip credit.

(n) "Resale" shall not include the sale of goods to be used in residential or farm building construction, repair, or maintenance: *Provided,* That the sale is recognized as a bona fide retail sale in the industry.

(o) HOURS WORKED.—In determining for the purposes of sections 6 and 7 the hours for which an employee is employed, there shall be excluded any time spent in changing clothes or washing at the beginning or end of each workday which was excluded from measured working time during the week involved by the express terms of or by custom or practice under a bona fide collective-bargaining agreement applicable to the particular employee.

(p) "American vessel" includes any vessel which is documented or numbered under the laws of the United States.

(q) "Secretary" means the Secretary of Labor.

(r)(1) "Enterprise" means the related activities performed (either through unified operation or common control) by any person or persons for a common business purpose, and includes all such activities whether performed in one or more establishments or by one or more corporate or other organizational units including departments of an establishment operated through leasing arrangements, but shall not include the related activities performed for such enterprise by an independent contractor. Within the meaning of this subsection, a retail or service establishment which is under independent ownership shall not be deemed to be so operated or controlled as to be other than a separate and distinct enterprise by reason of any arrangement, which includes, but is not necessarily limited to, an agreement, (A) that it will sell, or sell only, certain

goods specified by a particular manufacturer, distributor, or advertiser, or (B) that it will join with other such establishments in the same industry for the purpose of collective purchasing, or (C) that it will have the exclusive rights to sell the goods or use the brand name of a manufacturer, distributor, or advertiser within a specified area, or by reason of the fact that it occupies premises leased to it by a person who also leases premises to other retail or service establishments.

(2) For purposes of paragraph (1), the activities performed by any person or persons—

(A) in connection with the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, the mentally ill or defective who reside on the premises of such institution, a school for mentally or physicially handicapped or gifted children, a preschool, elementary or secondary school, or an institution of higher education (regardless of whether or not such hospital, institution, or school is operated for profit or not for profit), or

(B) in connection with the operation of a street, suburban or interurban electric railway, or local trolley or motorbus carrier, if the rates and services of such railway or carrier are subject to regulation by a State or local agency (regardless of whether or not such railway or carrier is public or private or operated for profit or not for profit), or

(C) in connection with the activities of a public agency.

shall be deemed to be activities performed for a business purpose.

(s)(1) "Enterprise engaged in commerce or in the production of goods for commerce" means an enterprise that—

(A)(i) has employees engaged in commerce or in the production of goods for commerce, or that has employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce by any person; and

(ii) is an enterprise whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);

(B) is engaged in the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises of such institution, a school for mentally or physically handicapped or gifted children, a preschool, elementary or secondary school, or an institution of higher education (regardless of whether or not such hospital, institution, or school is public or private or operated for profit or not for profit); or

(C) is an activity of a public agency.

(2) Any establishment that has as its only regular employees the owner thereof or the parent, spouse, child, or other member of the immediate family of such owner shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce or a part of such an enterprise. The sales of such an establishment shall not be included for the purpose of determining the annual gross volume of sales of any enterprise for the purpose of this subsection.

(t) "Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than $30 a month in tips.

(u) "Man-day" means any day during which an employee performs any agricultural labor for not less than one hour.

(v) "Elementary school" means a day or residential school which provides elementary education, as determined under State law.

(w) "Secondary school" means a day or residential school which provides secondary education, as determined under State law.

(x) "Public agency" means the Government of the United States; the government of a State or political subdivision thereof; any agency of the United States (including the United States Postal Service and Postal Rate Commission), a State, or a political subdivision of a State; or any interstate governmental agency.

(y) "Employee in fire protection activities" means an employee, including a firefighter, paramedic, emergency medical technician, rescue worker, ambulance personnel, or hazardous materials worker, who—

(1) is trained in fire suppression, has the legal authority and responsibility to engage in fire suppression, and is employed by a fire department of a municipality, county, fire district, or State; and

(2) is engaged in the prevention, control, and extinguishment of fires or response to emergency situations where life, property, or the environment is at risk.

* * * * * * *

MINORITY VIEWS

INTRODUCTION

H.R. 4366, the *Save Local Business Act*, would limit the cases in which more than one person or business can be held jointly accountable for violations of bedrock policies such as the minimum wage, child labor rules, and labor law. The bill would empower companies that effectively hire workers through subcontractors or temporary employment agencies to escape accountability for child labor and wage theft and would restrict unionized workers' ability to collectively bargain over the full range of the terms and conditions of employment in their workplaces.

This bill is opposed by the AFL–CIO, National Employment Law Project, National Partnership for Women and Families, National Women's Law Center Action Fund, and Signatory Wall and Ceiling Contractors Alliance.

UNDERLYING LAW

This bill would amend two core workplace laws: the *Fair Labor Standards Act of 1938* (FLSA)[1] and the *National Labor Relations Act* (NLRA).[2]

Fair Labor Standards Act

FLSA is the federal workplace standards law governing the minimum wage,[3] overtime,[4] oppressive child labor,[5] discrimination in

[1] Pub. L. No. 75–718, 52 Stat. 1060 (1938).
[2] Pub. L. No. 74–198, 49 Stat. 449 (1935).
[3] *Id.* § 6.
[4] *Id.* § 7.
[5] *Id.* § 12.

pay on the basis of sex,[6] and the right of nursing mothers to take paid breaks at work for the purpose of expressing breast milk.[7] It is enforced by the Wage and Hour Division (WHD) of the Department of Labor (DOL), as well as by workers themselves who bring cases in court.

In FLSA, the term "employ" includes "to suffer or permit to work."[8] When establishing this broad definition of employment, Congress consciously sought to expand the employment relationship to hold accountable employers who would not otherwise be liable for violations under a common-law control test.[9] Courts test the applicability of the FLSA definition using the "economic realities" test, which looks underneath whatever terms the parties to a relationship use to describe it and focuses instead on the reality of the relationship, based on the totality of the circumstances, to determine whether the putative employee is economically dependent on the potential employer.[10] Ultimately, the application of the economic realities factors is guided by the overarching principle that the FLSA should be "construed liberally to apply to the furthest reaches consistent with congressional direction."[11] The FLSA definition of employment is the "broadest definition that has ever been included in any one act."[12]

National Labor Relations Act

The NLRA is the foundational federal law governing labor relations. Administered by the National Labor Relations Board (NLRB), the NLRA protects the rights of employees to organize and collectively bargain with their employers for improved working conditions and benefits, among other things.

Under the NLRA, the question of whether a worker is an employee or an independent contractor is governed by a common law test of control.[13] Among the factors courts and the NLRB apply when examining whether workers are employees within the meaning of the NLRA are "the extent of control the employer has over the work; . . . whether the worker is engaged in a distinct occupation or business . . . ; whether the kind of occupation is usually done under the direction of the employer or by a specialist without supervision; [and] whether the employer is or is not in business."[14]

JOINT EMPLOYMENT

Labor and employment laws have long held that when the company that signs a worker's paycheck shares authority over terms and conditions of employment with other companies, multiple busi-

[6] *Id.* § 6(d).
[7] *Id.* § 18D.
[8] Id. § 3(g).
[9] Bruce Goldstein et al., *Enforcing Fair Labor Standards in the Modern American Sweatshop: Rediscovering the Statutory Definition of Employment*, 46 UCLA L. REV. 983, 991 (1999).
[10] Tony & Susan Alamo Found. v. Sec'y of Labor, 471 U.S. 290, 301 (1985) (reiterating that the test of employment under the FLSA is economic reality); Goldberg v. Whitaker House Coop, Inc., 366 U.S. 28, 33 (1961).
[11] Mitchell v. Lublin, McGaughy & Assocs., 358 U.S. 207 (1959).
[12] United States v. Rosenwasser, 323 U.S. 360, 363 (1945) (quoting 81 Cong. Rec. 7,657 (1938) (remarks of Sen. Hugo Black)). The FLSA's definition of "employ" is a standard of "striking breadth" that "stretches the meaning of 'employee' to cover some parties who might not qualify as such under a strict application of traditional agency law principles." Nationwide Mut. Ins. Co. v. Darden, 503 U.S. 318, 323 (1992).
[13] *See* FedEx Home Delivery v. NLRB, 849 F.3d 1123, 1125 (D.C. Cir. 2017).
[14] *Id.* (internal citations omitted).

nesses may as a result be accountable as employers for complying with the law. This is referred to as "joint employment."

FLSA and Joint Employment

Joint employment in FLSA arises not only out of the definition of *employer*, which "includes any person acting directly or *indirectly* in the interest of an employer in relation to an employee,"[15] but also out of the broad "suffer or permit" definition of "employ," which Congress borrowed from the early state child labor laws of the late 19th and early 20th centuries.[16] State authorities used this broad language to hold businesses accountable for child labor violations despite arrangements such as the "inside shop," where a manufacturer might subdivide the departments of the business into shops contracted out to other business operators, who all nevertheless contributed to the manufacturer's enterprise.[17]

The Supreme Court first examined FLSA joint employment in the 1947 case *Rutherford Food*.[18] In that case, a slaughterhouse operator retained an independent contractor to provide labor for a deboning process, and the deboning contractor directly hired workers to perform that work.[19] The employees worked on the meatpacking company's premises, received cattle carcasses from the meatpacking company's employees, deboned the cattle using the meatpacking company's tools and equipment, and then conveyed the deboned cattle along an overhead rail to another room where the meatpacking company's employees continued processing the carcasses into food products.[20] During this work, the deboning contractor's employees were supervised by one of the meatpacking company's "managing official[s]."[21] Taking account of "the circumstances of the whole activity," the Court agreed with WHD that the deboning employees constituted "a part of the integrated unit of production under such circumstances that the workers performing the task were employees of the establishment."[22]

More recently, the U.S. Court of Appeals for the Fourth Circuit advised that scrutiny of potential joint employer liability should focus less on the relationship between business and worker and more on the interrelationships of the businesses themselves.[23] In *Salinas*, the Fourth Circuit considered wage theft allegations brought by workers employed by a drywall and framing subcontractor, which almost exclusively worked on jobs for a construction contractor that specialized in finishing interiors.[24] Among other things, the contractor assessed the final work product of the subcontractor's employees and required the subcontractor to order re-execution of work the contractor deemed insufficient; mandated that the subcontractor's employees wear the contractor's logo and hold themselves out as employees of the contractor; and periodically instructed the subcontractor to dispatch workers to meet the

[15] *See* 29 U.S.C. § 203(d) (emphasis added).
[16] *See generally* Goldstein et al., *supra* note 9.
[17] *Id.* at 1057–58.
[18] Rutherford Food Corp. v. McComb, 331 U.S. 722 (1947).
[19] *Id.* at 724–25.
[20] *Id.* at 726, 730.
[21] *Id.* at 730.
[22] *Id.* at 729–30.
[23] Salinas v. Commercial Interiors, Inc., 848 F.3d 125 (4th Cir. 2017).
[24] *Id.*

contractor's needs.[25] Finding that the contractor was indeed jointly liable with the subcontractor for FLSA violations, the *Salinas* court clarified that joint employment inquiry "requires courts to determine whether the putative joint employers are not wholly disassociated or, put differently, share or codetermine the essential terms and conditions of a worker's employment."[26]

Joint employment is not a major factor in FLSA cases. The National Employment Law Project (NELP) reviewed FLSA enforcement and litigation in 2019 and found:

> there are not very many joint employer cases overall, as compared to other FLSA cases, despite the [business community's] pronouncements that the joint employer question is harming business . . . NELP's research and case compendium of joint employer cases shows that the majority arise in FLSA cases brought by agricultural workers, and over half of all cases do not result in a finding of joint and several liability.[27]

NLRA and Joint Employment

The NLRA's definition of "employer" contemplates that there can be joint employers in an employment relationship. Under Section 2(2) of the Act, the term "employer" includes "any person acting as an agent of an employer, directly or *indirectly*."[28] Likewise, the term "employee" is not limited to the employees of a particular employer. Section 2(3) of the Act states: "The term 'employee' shall include any employee, and shall not be limited to the employees of a particular employer, unless [the Act] explicitly states otherwise."[29]

For most of the time since the 1935 enactment of the NLRA, the NLRB has held that an entity may be liable to bargain with the employees of a subcontractor as a joint employer even if its control over terms and conditions of employment was indirect, such as exercised through an intermediary, or reserved but not yet exercised.[30] This traditional standard is consistent with the Supreme Court's requirement that the NLRB interpret the NLRA's definition of employer as consistent with the common law,[31] as well as with the legislative history of the NLRA's 1947 amendments.[32]

---

[25] *Id.* at 145–46.

[26] *Id.* at 139.

[27] Christine Owens et al., Nat'l Emp. L. Proj., *Comments on RIN 1235–AA26: Joint Employer Status Under the Fair Labor Standards Act* 3 n.1 (June 25, 2019), https://s27147.pcdn.co/app/uploads/2019/06/Comments-USDOL-Joint-Employer-Status-FLSA.pdf.

[28] *See* 29 U.S.C. § 152(2) (emphasis added).

[29] *See id.* § 152(3).

[30] *See, e.g., Floyd Epperson*, 202 NLRB 23, 23 (1973) (finding proof of joint employment where client employer had "some indirect control over [employees"] wages" and "some control, albeit indirect, over [employee] discipline"), *enforced* 491 F.2d 1390 (6th Cir. 1974); *Franklin Stores Corp.*, 199 NLRB 52, 53 (1972) (upholding ALJ finding of joint employment where one employer, "by virtue of the lease arrangement with" the other employer, "has the right to veto the employment of employees by" the other "and to insist on the discharge of employees by" the other).

[31] *See NLRB v. United Ins. Co. of America*, 390 U.S. 254, 256 (1968) (requiring the Board to "apply general agency principles in distinguishing between employees and independent contractors under the Act").

[32] *See* H.R. REP. NO. 80–510, at 32–33 (1947) (Conf. Rep.), *reprinted in* 1 LEGISLATIVE HISTORY OF THE LABOR MANAGEMENT RELATIONS ACT, 1947, at 536–37 (1948) (explaining the exclusion of independent contractors from the definition of employee in order to overturn a Supreme Court decision that "held that ordinary tests of the law of agency could be ignored by the Board" in determining the existence of employment relationships).

SHORTCOMINGS OF THE LEGISLATION

H.R. 4366 proposes to limit workers' protections under labor and employment laws when there are multiple entities with the power to determine employment conditions by adopting a single joint employer test for both NLRA and FLSA, limited to whether each putative joint employer "directly, actually, and immediately exercises significant control over the essential terms and conditions of employment[,] such as hiring such employees, discharging such employees, determining the rate of pay and benefits of such employees, supervising such employees on a day-to-day basis, assigning such employees a work schedule, position, or task, or disciplining such employees." [33]

Many Bosses, No Employers

The bill injects uncertainty into the very heart of the employment relationship—an uncertainty that businesses would be able to exploit at the expense of workers. Under current law, the joint employer doctrine essentially means that multiple persons share the obligations of the employer under a relevant labor or employment law. The bill, however, refers to a "joint employer of the employees of another employer," which could be construed as conceiving of a true employer and a subsidiary "joint" employer. With workplaces increasingly led by multiple businesses with complex layers of contracting and subcontracting,[34] creating new tiered definitions of *employer* and *joint employer* that deviate so significantly from the long-established uses of the terms would invite endless litigation by businesses eager to escape accountability under the nation's labor and employment laws.

When this bill was discussed in the Committee in a previous Congress, one confusion that emerged is whether some workers may find that they have no employer at all. In a 2017 legislative hearing, Ranking Member Scott raised this concern with legal expert Michael Rubin:

> Mr. SCOTT: [I]f you have a *Fair Labor Standards Acts* violation and somebody comes in and says, "I'm not an employer under this definition," and then the other guy comes in and says, "I'm not an employer under this definition either," is it possible that nobody is responsible?
>
> Mr. RUBIN: Wow. In fact, as I look at the language of the Act, that is possible. Imagine this circumstance: Company A is in charge of hiring. Company A and B share responsibility for firing. And company B also sets wages. The worker says, who is my employer under this definition? Well, does either company, A or B, control the essential terms, which are then listed? There are 9 of them in the conjunctive? No. So in that case there may be no employer.
>
> Mr. SCOTT: So if there's a finding that I wasn't paid overtime, nobody owes it?
>
> Mr. RUBIN: Neither company is a joint employer and arguably neither is an employer at all . . . [T]his language explodes uncertainty to the point where every single case,

[33] H.R. 4366, 119th Cong. § 2 (2025).

[34] *See generally* DAVID WEIL, THE FISSURED WORKPLACE: WHY WORK BECAME SO BAD FOR SO MANY AND WHAT CAN BE DONE TO IMPROVE IT (2014).

> where any element, any term or condition of employment is shared, there's going to be litigation over whether either company would be [liable].[35]

Even though Committee Democrats have raised this concern multiple times since, the Majority has not fixed the problem in the bill.

Hampering Effective Labor Organizing and Negotiation

The bill would narrow the current joint employer test for the NLRA by eliminating the consideration of indirect or reserved control. Under the common law, the employer does not need to exercise direct and immediate control in order to determine the essential terms and conditions of employment, because a presumed joint employer can limit the wages and benefits paid by the employees' direct employers through contractual arrangements, such as salary caps.

As a result, workers would be hampered from effectively organizing and negotiating with all of their employers. According to the Economic Policy Institute (EPI), this form of a stringent NLRA joint-employer standard "would result in an annual transfer of $1.3 billion from workers to employers."[36] Such a standard would have consequences not only for employees of smaller firms in a set of related firms, who would be unable to bargain with the lead firm in the chain with the power to determine wages and other conditions, but also for employees of the lead firm, whose bargaining power would be diluted by working with employees of less powerful firms but with whom they are not able to join in any bargaining scenario.

Open Invitation to Wage Theft

This bill dramatically narrows who is liable as a joint employer under the FLSA and would allow low-road companies to benefit from workers' labor while shirking any responsibility to them simply by using an intermediary contractor. Michael Rubin explained this likely consequence in his 2017 testimony by describing a FLSA case he litigated:

> In a case we settled a few years ago in Southern California, hundreds of hard-working warehouse workers were employed in four warehouses, loading and unloading trucks for deliveries to Walmart distribution centers throughout the country. Walmart owned the warehouses and all of their contents. It contracted with a subsidiary of Schneider Logistics, Inc. to operate the warehouses. Schneider, in turn, retained two labor services subcontractors who hired the warehouse workers. By contract, all responsibility for legal compliance rested solely with those two labor services subcontractors. Yet Walmart and Schneider had kept for themselves the contractual right to control almost every aspect of those warehouse workers' employment, directly and indirectly.

---

[35] H.R. 3441, *Save Local Business Act: Joint Hearing Before the Subcomm. on Wrkf. Prots. & the Subcomm. on Health, Emp., Lab. & Pensions of the H. Comm. on Educ. & the Wrkf.*, 115th Cong. 72 (2017) (testimony of Michael Rubin) [hereinafter Rubin Testimony].

[36] Celine McNicholas & Heidi Shierholz, *EPI Comments Regarding the Standard for Determining Joint-Employer Status*, ECON. POL. INST. (Dec. 9, 2018), https://www.epi.org/publication/epi-comments-regarding-the-standard-for-determining-joint-employer-status/.

> The violations we found in those warehouses were egregious. But the only reason the workers were eventually able to obtain relief—through a $22.7 million settlement that resulted in many class members receiving tens of thousands of dollars each as compensation—was because the warehouse workers had demonstrated a likelihood of success in proving that Walmart and Schneider, as well as the staffing agencies, were the workers' joint employers. The two staffing agencies were undercapitalized. . . . Only because the federal courts focused on the actual working relationships in those warehouses, as other courts have done in other joint-employer cases under the NLRA and FLSA, were the workers able to retain compensation for past violations, to obtain higher wages and significant benefits, and to have deterred future violations.[37]

When Rep. Mark Takano (D–CA) asked what these workers' remedy would be under the narrowed definition of joint employer, Mr. Rubin's response was bleak: "They would have no remedy at all. Their only recourse would be against the labor services contractor," who could only pay roughly 7% of the total settlement amount.[38]

Turning Back the Clock on Child Labor

Narrowing the definition of joint employer so significantly would turn back the clock on child labor protections. The word *suffer* in FLSA's "suffer or permit to work" clause means to acquiesce in, passively allow, or to fail to prevent the worker's work.[39] Current law, therefore, enables the government to pursue child labor violations not only against the employer of record but also any business in a position to stop the violation that elects, nevertheless, to benefit from it.

This narrowed definition, however, would enable lead companies in a chain of contracting to turn a blind eye to child labor, even on their own premises, so long as they do not actually exercise direct control over the illegally employed children. In accordance with current law, two of the nation's largest meatpacking companies recently settled with WHD for a combined $8 million in civil monetary penalties after WHD discovered that the companies had for years benefited from illegal child labor supplied at the companies' plants by outside contractors.[40] In the world created by this bill, however, the meatpacking companies would likely have been able to point the finger at their contractors and return to business as usual without consequence.

This threat comes at a time when child labor is on the rise. Recent high-profile exposés of companies illegally employing and overworking children in dangerous jobs have unveiled the horrific reality behind child labor statistics with story after story of young children working under hazardous conditions, staffing overnight

---

[37] Rubin Testimony, *supra* note 35, at 30.

[38] *Id.* at 63.

[39] Bruce Goldstein, Statement on *H.R. 3441* (Oct. 2, 2017), http://democrats-edworkforce.house.gov/imo/media/doc/ESPAILLAT_FWJ%20Statement%20H.R%203441%20Jt Employer.pdf.

[40] Hannah Dreier, *Meatpacking Companies to Pay $8 Million for U.S. Child Labor Violations*, N.Y. TIMES (Jan. 16, 2025), https://www.nytimes.com/2025/01/16/us/perdue-jbs-slaughterhouses-child-labor.html.

shifts, handling dangerous chemicals, and forgoing school.[41] According to WHD data, the number of children involved in child labor skyrocketed nearly 300 percent from Fiscal Year 2015 to Fiscal Year 2024—and these are just the cases that have been detected.[42] WHD is so resource-strapped that inspectors in a dozen states told the *New York Times* "their understaffed offices could barely respond to complaints, much less open original investigations."[43]

Republican lawmakers appear keen to roll back child labor protections. GOP lawmakers in state legislatures have introduced multiple bills to roll back state child labor laws. According to EPI, at least 31 states have introduced or passed such bills since 2021.[44] (Advocates have recently begun a counter-movement of state legislation to *improve* child labor protections.[45]) Florida Governor Ron DeSantis even provided state lawmakers a draft bill with the message that teens could replace immigrant workers the state may be losing to President Trump's immigration enforcement efforts.[46]

Child labor rollbacks are also on the agenda for Project 2025,[47] a radical blueprint for the Trump-Vance Administration developed by the Heritage Foundation with a team with at least 140 former officials from the first Trump Administration and campaign.[48]

---

[41] *A New Child Labor Crisis in America*, N.Y. TIMES (Mar. 9, 2023), https://www.nytimes.com/2023/03/09/podcasts/the-daily/migrant-child-labor-america.html; David J. Neal, *A Restaurant's Florida Franchisees Illegally Used Child Labor and Owed Workers $24,000*, MIAMI HERALD (Mar. 8, 2023), https://www.miamiherald.com/news/business/article272835475.html; *How Child Labor Violations Have Quadrupled Since 2015*, 1A: NPR (Mar. 6, 2023), https://www.npr.org/2023/03/06/1161486299/how-child-labor-violations-have-quadrupled-since-2015; Nandita Bose & Mica Rosenberg, *U.S. to Crack Down on Child Labor Amid Massive Uptick*, REUTERS (Feb. 27, 2023), https://www.reuters.com/business/us-crack-down-child-labor-amid-massive-uptick-2023-02-27/; Hannah Dreier, *Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S.*, N.Y. TIMES (Feb. 25, 2023), https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html; Terri Gerstein, *Child Labor Has Made a Comeback*, SLATE (Nov. 16, 2022), https://slate.com/business/2022/11/packers-sanitation-child-labor-department-hyundai-chipotle.html.

[42] *See* Wage & Hr. Div., *Child Labor*, U.S. DEP'T OF LAB., https://www.dol.gov/agencies/whd/data/charts/child-labor (last visited May 29, 2025).

[43] Dreier, *supra* note 41.

[44] *Child Labor*, ECON. POL. INST., https://www.epi.org/research/child-labor/ (last visited Mar. 17, 2025).

[45] Nina Mast, *More States Have Strengthened Child Labor Laws Than Weakened Them in 2024*, ECON. POL. INST. (June 12, 2024), https://www.epi.org/blog/more-states-have-strengthened-child-labor-laws-than-weakened-them-in-2024-this-year-state-advocates-were-better-equipped-to-organize-in-opposition-to-harmful-bills/. Most recently, the State of Washington passed legislation increasing child labor maximum penalties, setting new mini-mum penalties, barring violators from employing children, and banning violators from bidding on public works. Nicole Black, *Washington Governor Signs Landmark Child Labor Protection Bill into Law Amid Rising Workplace Injuries for Minors*, HOODLINE (Apr. 29, 2025), https://hoodline.com/2025/04/washington-governor-signs-landmark-child-labor-protection-bill-into-law-amid-rising-workplace-injuries-for-minors/. The legislation comes in the aftermath of 750 child worker injuries in the state in 2023 and the state's first ever felony child labor prosecution of an employer of a 16-year-old who lost both his legs in a work experience program while using machinery not allowed under state (or federal) child labor rules. Lizz Giordano, *Washington Seeks Felony Charges After Teen Loses Legs*, NW. LAB. P. (Apr. 30, 2025), https://nwlaborpress.org/2025/04/washington-seeks-felony-charges-after-teen-loses-legs/.

[46] McKenna Schueler, *Florida Gov. Ron DeSantis Pushed for Child Labor Rollbacks Behind the Scenes, Records Show*, ORLANDO WKLY. (Apr. 8, 2025), https://www.orlandoweekly.com/news/florida-gov-ron-desantis-pushed-for-child-labor-rollbacks-behind-the-scenes-records-show-39246707; John Kennedy, *All Work Restrictions Would Be Lifted on 16- and 17-Year-Olds in Florida Under New Bill*, TALLAHASSEE DEM. (Mar. 25, 2025), https://www.tallahassee.com/story/news/local/state/2025/03/25/florida-teens-would-have-work-limits-lifted-under-new-legislation/82598988007/.

[47] *See* PROJECT 2025, HERITAGE FOUNDATION, MANDATE FOR LEADERSHIP: THE CONSERVATIVE PROMISE (Paul Dans & Steven Groves eds. 2023), https://static.project2025.org/2025_MandateForLeadership_FULL.pdf.

[48] Elena Shao & Ashley Wu, *The Many Links Between Project 2025 and Trump's World*, N.Y. TIMES (Oct. 22, 2024), https://www.nytimes.com/interactive/2024/10/22/us/politics/project-2025-trump-heritage-foundation.html.

While President Trump repudiated Project 2025 during the campaign,[49] his actions thus far in his second term have drawn directly from it.[50] Project 2025 calls for eliminating the WHD child labor rules that prohibit children from being employed in certain jobs DOL deems particularly hazardous.[51] Among jobs that would be opened to children are meat and poultry processing, roofing, shipbreaking, logging, pesticide handling, and even jobs with exposures to radioactive substances.[52]

DEMOCRATIC AMENDMENTS OFFERED DURING THE MARKUP OF H.R. 4366

Committee Democrats put forward one amendment to improve the bill. It would have prevented the application of the legislation's joint employer standard in child labor cases.

AMENDMENT	OFFERED BY	DESCRIPTION	ACTION TAKEN
#2	Ms. Adams	Section 2(b) shall not apply in cases relating to child labor.	Defeated

Committee Republicans rejected the amendment.

CONCLUSION

For the reasons stated above, Committee Democrats unanimously opposed H.R. 4366 when the Committee on Education and Workforce considered it on July 23, 2025. We urge the House of Representatives to do the same.

ROBERT C. "BOBBY" SCOTT,
Ranking Member.
SUZANNE BONAMICI,
MARK DESAULNIER,
SUMMER LEE,
ADELITA GRIJALVA,
Members of Congress.

○

[49] Vaughn Hillyard & Alexandra Marquez, *Trump Disavows Project 2025, But He Has Long-Standing Ties to Some Key Architects*, NBC NEWS (Jul. 11, 2024), https://www.nbcnews.com/politics/donald-trump/project-2025-trump-heritage-foundation-what-know-rcna161338.

[50] Steve Contorno & Casey Tolan, *Trump Said He Hadn't Read Project 2025—But Most of His Early Executive Actions Overlap with Its Proposals*, CNN (Jan. 31, 2025), https://www.cnn.com/2025/01/31/politics/trump-policy-project-2025-executive-orders-invs/index.html; Elena Shao et al., *How Trump's Directives Echo Project 2025*, N.Y. TIMES (Feb. 14, 2025), https://www.nytimes.com/interactive/2025/02/14/us/politics/project-2025-trump-actions.html.

[51] PROJECT 2025, *supra* note 47, at 595.

[52] For a summary of currently prohibited jobs, see https://webapps.dol.gov/elaws/whd/flsa/docs/haznonag.asp (non-agricultural) and https://webapps.dol.gov/elaws/whd/flsa/docs/hazag.asp (agricultural).