The Honorable Elise M. Stefanik  
U.S. House of Representatives  
Washington, DC 20515

Re: Modern Worker Empowerment Act

Dear Congresswoman Stefanik:

On behalf of the Coalition to Promote Independent Entrepreneurs, a national coalition of organizations, companies, and independent entrepreneurs that support an individual’s right to do business and work as an independent entrepreneur, we are writing to express our strong support for H.R. 4069, the Modern Worker Empowerment Act. The undersigned thank you for introducing this bill.

The modern economy has introduced technological innovations that enable individuals with merely an idea and a computer or smartphone to start a business. Despite low barriers to entry for independent entrepreneurship, Bureau of Labor Statistics data reveal that the number of independent entrepreneurs relative to the civilian labor force has declined over the last ten years. Enclosed is a graph reflecting BLS data in this regard.

One factor contributing to this decline is our nation’s outdated and inconsistent labor laws. At this time, more than ten different tests define the term “employee” for purposes of federal and state statutes. This patchwork of different definitions for the same term creates significant uncertainty for independent entrepreneurs and their clients. This uncertainty, in turn, creates an unfair playing field that discriminates against these independent entrepreneurs relative to their larger incorporated competitors, which stifles economic growth.

The Modern Worker Empowerment Act would liberate independent entrepreneurs by updating the definition of the term “employee” for purposes of the Fair Labor Standards Act (“FLSA”) and conforming it to the other New Deal statutes enacted during the 1930s that also applied an “economic realities” test many years ago but now apply a common-law definition for the term.

The bill also would reconcile the FLSA with more recent United States Supreme Court decisions1 holding that a common-law test is the proper test for the term “employee” for purposes of (i) statutes that do not define the term, and (ii) statutes, such as the FLSA, that define the term with a definition that is circular. Furthermore, adopting a common-law

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test for purposes of the FLSA would have the effect of harmonizing the definition of “employee” for purposes of all federal statutes.

A harmonized definition of “employee” would be beneficial to all stakeholders. It would provide much needed certainty to independent entrepreneurs and their clients, while also enabling government agencies to more efficiently ensure proper worker classification.

We thank you for your leadership on this important issue by introducing H.R. 4069 to bring the FLSA into the 21st century.

Sincerely,

American Bakers Association
American Moving & Storage Association
American Society of Travel Advisors
American Trucking Associations
Americans for Tax Reform
Auto Care Association
Center for Worker Freedom
Competitive Enterprise Institute
Dart Transit Company
Direct Selling Association
Electronic Transactions Association
Financial Services Institute
Forest Resources Association
Freedom Foundation
Heritage Action for America
Hispanic Leadership Fund
HomeCare.com
Independent Bakers Association
Insights Association
International Franchise Association
MBO Partners
MSPA Americas
National Association for the Self-Employed
National Association of Home Builders
National Council for Languages and International Studies
NetChoice
Private Care Association
Rio Grande Foundation
Small Business & Entrepreneurship Council
TechFreedom
The Heartland Institute

Enclosure

cc: The Honorable Bradley Byrne
    The Honorable David P. Roe
    The Honorable Ron Wright
**Decline in Independent Contractors Relative to the Civilian Labor Force**

**BLS Definitions**

**Labor Force:** The labor force includes all persons classified as employed or unemployed in accordance with the definitions contained in this glossary.

**Employed Persons:** Persons 16 years and over in the civilian noninstitutional population who, during the reference week, (a) did any work at all (at least 1 hour) as paid employees; worked in their own business, profession, or on their own farm, or worked 15 hours or more as unpaid workers in an enterprise operated by a member of the family; and (b) all those who were not working but who had jobs or businesses from which they were temporarily absent... whether or not they were paid for the time off or were seeking other jobs. Each employed person is counted only once... Excluded are persons whose only activity consisted of work around their own house... or volunteer work for religious, charitable, and other organizations.

**Unemployed Persons:** Persons aged 16 years and older who had no employment during the reference week, were available for work, except for temporary illness, and had made specific efforts to find employment sometime during the 4-week period ending with the reference week. Persons who were waiting to be recalled to a job from which they had been laid off need not have been looking for work to be classified as unemployed.