Opening Statement of Chairwoman Alma Adams (NC-12)
Subcommittee on Workforce Protections Hearing
Misclassification of Employees: Examining the Costs to Workers, Businesses, and the Economy
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Today, we are gathered to discuss worker misclassification, a pervasive problem that imposes significant costs to workers, businesses, and our economy.

When a worker who should be an employee under the law is categorized as anything else, such as an independent contractor, there is misclassification.

And this misclassification is too often used as a cost cutting strategy by low-road employers to gain an unfair competitive advantage.

While we do need more up-to-date, comprehensive national research on misclassification, we know from available data that a significant portion of the U.S. workforce may be affected.

As our witnesses will attest, this has severe consequences for workers.

The *Fair Labor Standards Act* has a broad employment standard that helps ensure a wide range of workers have basic wage and hour protections.

This year, our committee has passed legislation to strengthen these protections so that hardworking Americans are paid fairly for their labor.

This includes passing an increase to the minimum wage out of the House for the first time in more than a decade.

This subcommittee has also sought to hold the Administration accountable for promoting weak overtime protections.

When workers are misclassified, they lose out on these and other protections that ensure workers are paid for the hours they work.

This can translate into a significant income loss for low-wage workers.

For example, in 2012, the Wage and Hour Division recovered roughly $250,000 in unpaid overtime and minimum wages for 75 workers who were misclassified by a cleaning company —the equivalent of nearly three months of earnings.

And misclassification is not just bad for workers, it also harms businesses that classify their employees lawfully by providing bad actors an unfair advantage.

Estimates show that employers can save as much as 30 percent on payroll and related taxes by misclassifying workers.

As we will hear from our witnesses, law-abiding businesses who want no part of misclassification schemes are forced to compete against low-road employers who use misclassification as a strategy to undercut their competitors by evading basic labor protections.

Finally, worker misclassification harms our economy.

Available data shows that misclassification deprives our government of badly needed tax revenue that could be spent on our communities.

According to a 2009 GAO report, roughly 15 percent of employers misclassified 3.4 million workers in 1984.

In that year alone, misclassification cost the federal government $1.6 billion in lost tax revenue. Adjusted for inflation, that is $3.72 billion today.

The conversation around misclassification is nothing new.

A Department of Labor-commissioned report from nearly 20 years ago indicated that anywhere between 10 and 30 percent of employers in audited states misclassified at least one of their workers.

For decades, unscrupulous employers have tried to cut labor costs by treating workers who ***should*** be considered employees under the law as anything ***but*** employees.

The evidence is clear that misclassification violates workers' rights, damages law-abiding businesses, and increases the burden on taxpayers.

State governments across the country and across the political spectrum, from the District of Columbia to Missouri, have taken bipartisan steps towards combatting misclassification.

Over the last several years, at least 20 states have enacted laws to more effectively combat misclassification and more than 15 states have initiated innovative government taskforces to do the same.

As states take the lead, the federal government must also do its part to uphold worker protections and defend the many employers who play by the rules.

That is why Congress must pass the *Payroll Fraud Prevention Act*.

This legislation would help reduce misclassification by requiring employers to accurately classify their workers and to provide all workers they hire with a written notice of their classification.

The bill would hold employers accountable for misclassification by establishing civil penalties for violations and extend a private right of action to misclassified employees to recover lost wages.

The bill would also help improve the detection of misclassification by directing the Wage and Hour Division to conduct audits of industries with frequent incidents of misclassification.

Each of us in this room has a responsibility to ensure that workers are properly treated as employees, when in fact they are employees, and provided the pay protections they are guaranteed under law.

Today's hearing is an opportunity for this Committee to come together, build upon state-level efforts, and take concrete, bipartisan steps towards improving the lives of workers across the country.

I want to thank the witnesses for their testimony and express my appreciation for taking the time to be with us today.

I now yield to the Ranking Member, Mr. Byrne, for an opening statement.

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