July 28, 2017

Dear Representative:

We, the undersigned unions representing millions of American workers, are writing to urge you to not support H.R. 3441, the joint employer bill introduced by Representatives Bradley Byrne and Chairwoman Virginia Foxx of the House Committee on Education and the Workforce, which would eliminate the National Labor Relation Board's (NLRB) decision in *Browning-Ferris*, and greatly restrict the definition of employer under the Fair Labor Standards Act. Congress should be working to strengthen the rights of working people and raise wages. The legislation would accomplish the opposite.

Over the past few decades, the middle class has been struggling to stay afloat. As wages have often been stagnant or declining, more and more companies have used middlemen from staffing agencies, labor contractors and to subcontractors to maintain low wages, avoid accountability and prevent a large percentage of workers from organizing. It is important that when workers try to remedy illegal employment practices or organize to join a union that the party calling the shots is at the table and part of the remedy. And indeed, the current state of the law under both under the National Labor Relations Act and the FSLA balances the interests of workers and employers by requiring a fact specific inquiry to determine whether or not there is a joint employer relationship.

This bill seeks to legislate around a century of consistent case law and established joint employer standards in labor and employment law. It redefines the term 'employer' so narrowly that many workers will have no remedy when their employers violate their union rights or wage laws.

The legislation would overturn the Browning Ferris NLRB decision, a case which found a joint employer relationship between Browning Ferris and Leadpoint their subcontractor. In this case, Browning-Ferris, Inc. (BFI), the employer, controlled the speed of the conveyor belt where employees of contractor Leadpoint sorted materials, prohibited Leadpoint from raising wages above a specified cap without BFI's permission, and determined the shift times and the number of people on shifts. Since Leadpoint was unable to negotiate these employment terms among others without BFI approval, the NLRB found BFI must be at the bargaining table along with its subcontractor in order for the union to negotiate a meaningful collective bargaining agreement. The decision was fact specific and in keeping with the realities of today's workplace.

Further, the bill would drastically change the definition of employment relationships under the FLSA which recognizes that more than one business can be an employer. Currently, under the FLSA employers cannot hide behind labor contractors or franchisees, when they set critical conditions of employment. Because the Migrant and Seasonal Agricultural

Worker Protection Act refers to the definition of "employ" in the FLSA, this bill will also impact farm workers seeking to redress wage theft and other employment abuses. It is the FLSA definition of employ that has allowed workers to effectively enforce child labor and other laws and to effectively address sweatshops for decades. Today, it is this definition that offers workers hope that when they organize for a union and better wages that the party that can actually effectuate change is at the table.

We urge you to weigh the interests of workers and stand with them in opposing legislation that would rollback the NLRB's decision and restrict workers' rights under the law.

Sincerely,

International Brotherhood of Teamsters (IBT)
Service Employees International Union (SEIU)
United Automobile, Aerospace and Agricultural Implement Workers of America (UAW)
United Farm Workers of America (UFW)
United Food & Commercial Workers International Union (UFCW)
United Steelworkers (USW)