



December 13, 2023

The Honorable Virginia Foxx
Chairwoman
House Committee on Education
and the Workforce
U.S. House of Representatives
Washington, DC 20515

The Honorable Bobby Scott
Ranking Member
House Committee on Education
and the Workforce
U.S. House of Representatives
Washington, DC 20515

Dear Chairwoman Foxx, Ranking Member Scott, and members of the House Committee on Education and the Workforce,

On behalf of Associated Builders and Contractors, a national construction industry trade association with 68 chapters representing more than 22,000 member companies, I write today to comment on the committee's markup of H.R. 6655, A Stronger Workforce for America Act; H.J. Res. 98, a Congressional Review Act resolution to nullify the National Labor Relations Board's joint employer rule; H.R. 3400, the Small Businesses before Bureaucrats Act and H.R. 6585, the Bipartisan Workforce Pell Act. ABC appreciates the committee's work on these critical bills and the opportunity to comment on their impact to the construction industry and our workforce.

H.R. 6655, A Stronger Workforce for America Act:

ABC applauds the bipartisan efforts of H.R. 6655 that will reauthorize the Workforce Innovation and Opportunity Act for the first time in nearly a decade. Since its bipartisan reauthorization in 2014, WIOA has been a key asset to the construction industry and its efforts to obtain funding for workforce development efforts and assist those seeking new jobs and employment. Most critically for ABC and our members, H.R. 6655:

- Supports an all-of-the-above approach to work-based learning, including employer-led and on-the-job workforce upskilling programs and opportunities;
- Ensures more dollars are directed towards tangible worker programs by dedicating 50% of the adult and dislocated worker funding for upskilling workers through individual training accounts, on-the-job learning and other employer-led and industry-relevant initiatives;
- Streamlines the "eligible training provider list" to ensure programs are aligned with in-demand jobs and the needs of employers to ensure better jobs and workforce opportunities;
- Allows for better evaluation of program success to ensure job seekers obtain the skills they need and safeguard valuable taxpayer dollars; and
- Improves the efficiency and effectiveness of workforce programs by increasing the cap from 10% to 60% on the amount of funds a local board may use on pay-for-performance contracts.

ABC appreciates the efforts of this reauthorization to seek true modernization and bipartisan input to support WIOA's success, and we look to support additional efforts to an-all-of-the above

approach to workforce development and level the playing field for apprenticeship programs not registered under the U.S. Department of Labor.

H.J. Res. 98, Joint Employer Congressional Review Act Resolution:

The new joint employer final rule from the National Labor Relations Board will drastically alter the existing contractor and subcontractor relationship in the construction industry, implementing a harsh new standard. In construction, a general contractor must exercise a certain amount of control over its subcontractors and their employees simply to ensure the safe and efficient performance of the work. The most common construction jobsites are multi-employer worksites, and the general contractor or construction manager schedules and coordinates the work of many subcontractors, often in multiple tiers, who perform their services simultaneously or in sequence. The general contractor directs the work on the site and controls the schedule, which may be affected by weather, availability of materials, local building inspection regimes and many other factors.

Unfortunately, the new rule reverts to an unworkable standard based on “exercised control” and a nonexhaustive list of factors, some of which have yet to be determined. Under the new final rule, general contractors, in most cases, would be considered joint employers of their subcontractors. This will undoubtedly cause chaos, muddying the waters and making many of these previously successful and effective business relationships unsustainable.

H.J. Res. 98, if enacted, would not only prevent the rule from going into effect but would also prohibit the issuance of a similar rule in the future. This CRA resolution of disapproval is critical to combatting this ill-advised rule and ensuring that the construction industry can continue its important work unimpeded.

H.R. 3400, the Small Businesses Before Bureaucrats Act:

Under President Biden, the NLRB continues to impose a harsh regulatory agenda that is making it harder for many small businesses to support their operations and ensure compliance with ever-changing, complicated new rulemakings. H.R. 3400 would modernize the NLRB’s decades-old jurisdictional standards to limit the NLRB’s authority over small businesses by adjusting the annual revenue requirements from \$500,000 to \$5,000,000 for retail businesses and \$50,000 to \$500,000 for nonretail businesses.

H.R. 3400 would reduce the unnecessary regulatory burdens placed on small businesses throughout the country, limiting legal bills and enhancing their focus on core business needs.

H.R. 6585, the Bipartisan Workforce Pell Act:

ABC will continue to advocate for an all-of-the-above workforce development strategy, including industry-driven and government-registered apprenticeship programs, so workers and employers have the freedom to choose the best way to provide value and help rebuild America. ABC also believes that expanding access to all post-secondary credentials as defined by WIOA is critical to ensuring that we can fill the critical jobs gap facing construction and a host of other industries throughout the country.

While H.R. 6585 would seek to expand Pell Grants to students participating in high-quality, short-term workforce programs, ABC is concerned with the bill's requirement that the qualifying program have a completion rate of 70%, within 150% of normal time of completion, and job placement rate of at least 70%. While ABC and our members work to provide the necessary support and encouragement for those seeking education, many of the workforce development and apprenticeship programs in construction suffer from low completion rates due to a number of factors outside of the control of the employer or sponsor.

ABC urges the committee to reconsider this requirement and look to other bipartisan proposals on expanding access to post-secondary credentials. In this Congress, ABC supports the Freedom to Invest in Tomorrow's Workforce Act (S.822/H.R. 1477), which would expand 529 plans for all recognized postsecondary credentials as defined by the Workforce Innovation and Opportunity Act, and the Jumpstarting Our Businesses by Supporting Students Act (S. 161/H.R. 793), which would expand Pell Grant eligibility to cover high-quality and rigorous, short-term job training programs without the concerning completion rate requirements.

ABC appreciates the opportunity to comment on these key issues facing the construction industry and continues to support the important work of the committee in helping our members address their workforce needs. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Kristen Swearingen". The signature is fluid and cursive, with a large initial "K" and a long, sweeping underline.

Kristen Swearingen
Vice President, Legislative & Political Affairs