



444 N. Capitol Street NW, Suite 142  
Washington, DC 20001



444 N. Capitol Street NW, Suite 348  
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May 7, 2010

The Honorable Daniel K. Inouye  
Chairman  
Committee on Appropriations  
S-128, U.S. Capitol  
Washington., D.C. 20510

The Honorable Thad Cochran  
Ranking Member  
Committee on Appropriations  
S-146A, U.S. Capitol  
Washington, D.C. 20510

Dear Chairman Inouye and Ranking Member Cochran:

We are writing in support of the President's proposal to appropriate \$25 million for fiscal year 2011 aimed at providing the U.S. Departments of Treasury and Labor with the tools they need to reduce employer misclassification of workers as independent contractors. According to a 1984 U.S. Treasury Department study cited in a recent Government Accountability Office report, about one in seven employers misclassified workers as independent contractors and denied employee benefits to over 3 million workers.

The President's proposal would provide: (1) the Employment and Training Administration (ETA) of the U.S. Department of Labor (USDOL) \$12 million to fund 90 positions focusing on misclassification of workers during Wage and Hour Division investigations; (2) \$11.25 million for competitive grants to states to increase their capacity to detect and prosecute employers that fail to pay unemployment taxes because of misclassification of employees; (3) \$1.6 million and 10 positions for the USDOL Solicitor to litigate misclassification of employees cases; and (4) \$150 thousand for the Occupational Safety and Health Administration to modify training of field workers to help them identify and report employee misclassification to the Wage and Hour Division of the USDOL. In addition, the President proposes legislation that would shift the burden of proof to employers for demonstrating their employees are classified properly and make misclassification of employees a violation of the Fair Labor Standards Act.

Employers misclassifying employees as independent contractors unfairly compete with employers not engaging in this practice because it cuts their payroll costs by about one-third. As a result, they can undercut the prices of some of their competitors. Moreover, workers are denied private employee benefits such as vacation and sick leave, pensions, and health insurance. They also are denied public benefits such as unemployment insurance coverage and protections under the Fair Labor Standards Act. Moreover, the unemployment insurance system is denied federal and state payroll taxes at a time when 35 state programs are insolvent.

Please support the President's proposal for \$25 million for fiscal year 2011 to reduce employer misclassification. The Administration estimates this will generate over \$7 billion in federal tax revenue over the next ten years. Employers paying their fair share of payroll taxes, workers gaining employee benefits, and public programs gaining taxes currently avoided, and our economy as a whole will benefit from these employer and worker protections.

Sincerely,



Karen Turner Lee  
President, National Association  
of State Workforce Agencies and  
Commissioner, Washington Department  
of Employment Security



Cindi Holmstrom  
President, Federation of  
Tax Administrators,  
Director, Washington Department  
of Revenue