



March 26, 2025

Ryan Mackenzie (Chairman)
U.S. House of Representatives
Subcommittee on Workforce Protections

Ilhan Omar (Ranking Member)
U.S. House of Representatives
Subcommittee on Workforce Protections

RE: SHRM’s Call for FLSA Modernization

On behalf of SHRM’s 340,000 members, SHRM supports comprehensive modernization of the Fair Labor Standards Act (FLSA) to better serve today’s workforce. As emphasized in the testimony of Paige Boughan, MS, SHRM-SCP, State Council Legislative Director for Maryland SHRM, during the House Workforce Protections Subcommittee hearing on “The Future of Wage Laws: Assessing the FLSA’s Effectiveness, Challenges, and Opportunities,” SHRM believes that unlocking the full potential of the American workforce requires three key actions: modernizing workplace policies, closing the workforce participation gap, and shaping the future of work.

While foundational to U.S. wage and hour law, the FLSA is outdated and contains vague or ambiguous terms, which has led to negative consequences. Modernization efforts must focus on federal and legislative solutions that prioritize clarity on which workers are covered, consistency in application, and compliance-oriented language. Regulatory actions have dominated policymaking over the past decade, and shifting regulations, often vacated by the courts or reversed by new administrations, only exacerbate the issues felt by workers and organizations alike. While regulators play a role in enforcement, they cannot replace the need for balanced legislative reform. SHRM advocates for the following:

Establish a Uniform Definition of Independent Contractor: Independent workers play a crucial role in the U.S. economy, offering specialized talent and workforce flexibility. Many choose to work outside traditional employment structures for greater control over their schedules. However, the law does not adequately recognize independent workers, leading to inconsistent classification regulations that create uncertainty for businesses and workers alike, with widespread consequences across the workforce.

Congress should enact clear classification criteria, support organizations offering portable benefits, and align these criteria with other federal labor laws. SHRM supports H.R. 1319, which seeks to amend the FLSA and National Labor Relations Act to clarify worker classification standards. Aligning these laws would reduce confusion, ensuring employers and employees understand their rights and obligations under both laws.

Update Overtime Regulations: Under the FLSA, nonexempt employees are entitled to overtime pay for hours worked beyond 40 in a workweek, while exempt employees are not. The designation of exempt versus nonexempt does not hinge on job title alone but on specific criteria, including salary level, salary basis, and job duties. For employers, accurately distinguishing between exempt and nonexempt employees is essential for managing payroll, organizing the workforce, and mitigating legal risk.

Given its importance, policymakers must ensure classification guidelines remain clear and relevant to today’s workforce and evolving job structures. The Computer Employees Exemption, unchanged since 1996, does not reflect advancements in AI, data science, and cybersecurity. Congress should update 29 USC 213(a)(17) to include these types of emerging technology roles. The Outside Sales Exemption does not explicitly recognize remote sales under 29 U.S.C. § 213(a)(1)(A). Updating these terms to reflect the



reality of the workforce will benefit employees and employers alike, as employees benefit from understanding their status to ensure they receive proper compensation and protections under the law.

Clarify the “Continuous Workday” Doctrine: Under the FLSA, the “workday” is “the period between the commencement and completion on the same workday of an employee's principal activity or activities.” It includes all time within that period whether or not the employee engages in work throughout all of that period. The principles of the “continuous workday” doctrine were relaxed during the pandemic through temporary rules and opinion letters. SHRM believes this principle must be made permanent, as COVID-era policies have extended beyond the pandemic and have fundamentally reshaped the workplace. Public policy must reflect these modern arrangements. SHRM urges Congress to amend 29 U.S.C. Section 255(a) to distinguish compensable work activities from personal time, maintaining flexibility while upholding labor protections.

Modernizing the FLSA is essential to ensure federal labor laws reflect the needs of today’s workforce. Legislative solutions must provide clear, consistent, and compliance-oriented standards to promote worker protections, support workforce development, and foster economic growth. SHRM respectfully submits this letter to contribute to ongoing discussions on labor law modernization and ensure that both employers and employees can operate with the certainty needed to maintain a productive and lawful working relationship. SHRM looks forward to continued collaboration and remains committed to advocating for policies that support work, workers, and the workplace.

Sincerely,

Emily M. Dickens, J.D.
Chief of Staff, Head of Government Affairs & Corporate Secretary