

A photograph of construction workers in orange safety gear on a job site. The image is partially obscured by a dark blue semi-transparent overlay on the left side, which contains the title and update information. The workers are standing near a piece of yellow construction equipment. The ground is light-colored and appears to be a mix of dirt and gravel.

WAGE THEFT FACTS

*Misclassification and Payroll
Fraud in Construction*

Updated October 2023

THIS IS A TOOLKIT ON ALL THINGS RELATED TO WAGE THEFT, MISCLASSIFICATION, AND PAYROLL FRAUD IN THE CONSTRUCTION INDUSTRY

This toolkit provides evidence-based fact sheets and informational tables, videos, and infographics intended to help deliver results for those fighting against worker misclassification and payroll fraud in construction.

(Please click on the information that **YOU** need)

One-Page Facts	2
What Is Worker Misclassification, Payroll Fraud, and Wage Theft?	2
Worker Misclassification Disproportionately Affects Vulnerable Populations	5
Wage Theft is a Crime Against Construction Workers	8
Wage Theft is a Crime Against the Taxpayer	12
Ways to Combat Payroll Fraud and Wage Theft in Construction	15
Example Op-Eds on Misclassification and Wage Theft in Construction	20
Tables	28
Figure 1: Research on Construction Worker Misclassification and Payroll Fraud, 2004-2023	28
Figure 2: Research on Tax Fraud Due to Construction Worker Misclassification, 2004-2023	29
Videos	30
Infographics	34
State Enforcement Agencies	41
Research Sorted by Year	48

●●● ONE-PAGE FACTS ●●●

What Is Worker Misclassification, Payroll Fraud, and Wage Theft?

Payroll fraud is rampant in the U.S. construction industry. Employers misclassifying their workers as “independent contractors” and paying workers entirely “off-the-books” in cash-only arrangements are two of the primary ways in which payroll fraud occurs. In construction, employers—either knowingly or unknowingly—engage in this illicit activity to reduce total costs and bid prices (Ormiston, Belman, & Erlich, 2020). By classifying workers as independent contractors rather than as employees, businesses artificially reduce their labor costs by avoiding the payment of fringe benefits and by shifting their share of the tax burden onto workers. Employers who misclassify their workers do not pay their share of unemployment insurance, do not withhold income taxes for employees, and do not contribute to state workers’ compensation systems. Misclassification also enables other forms of wage theft, such as minimum wage violations and overtime violations, as independent contractors are not protected by federal statutes such as the Fair Labor Standards Act (Erlich, 2020; Erlich & Gerstein, 2019; Cooper & Kroeger, 2017). Between 10% and 20% of employers misclassify at least one worker as an independent contractor (Carré, 2015).

Certain industries, like construction, are more prone to misclassification than others. In the past two decades, there have been at least 21 studies by academic professors, policy experts, and government agencies that have estimated the incidence of construction worker misclassification within the United States. These 21 studies cover 17 different U.S. states, six cities in the American South, and the United States as a whole. Although they each differ in methodology, the findings are clear and consistent: construction businesses are misclassifying blue-collar trades workers at alarmingly high rates.

A landmark national study released in 2020 estimated that between 12% and 21% of all construction workers are misclassified as independent contractors or paid “off-the-books” in cash (Ormiston, Belman, & Erlich, 2020). In Missouri, 21% of construction workers are misclassified or are working “off-the-books” in cash-only arrangements (Kelsay, 2023). In New York, 18% of all independent contractors who were identified as “low-paid” were working in construction (Moe, Parrot, & Rochford, 2020). In Massachusetts, 17% of audited construction companies were actively misclassifying employees (Juravich, Ormiston, & Belman, 2021). In Rhode Island, 12% of construction employers misclassify workers (Ormiston & Juravich, 2022). In Kentucky, 26% of audited construction companies were actively misclassifying employees; an identical percentage was found in Michigan (Kelsay & Sturgeon, 2011; Belman & Block, 2009). In Indiana, more than 47% of audited construction companies were actively misclassifying employees (Kelsay & Sturgeon, 2010). While some independent contractors are classified legitimately and by their own choice, the disproportionate representation of misclassified independent contractors in construction suggests a pervasive problem in the industry that contributes to economic inequality.

Fraudulent contractors who engage in employee misclassification underbid law-abiding, responsible competitors who properly classify their employees. This is especially true in low-bid models of construction, such as in lettings for public works projects. One study found that misclassification allowed unscrupulous employers to be awarded federal projects during the 2009 economic stimulus program after the Great Recession (Locke & Ordonez, 2015). This places compliant construction firms at a disadvantage and puts them in a situation where they would either lose market share or be forced to engage in similar illicit employment practices in order to match their competitors’ bids. The result is an erosion of job quality for skilled trades workers, poorer infrastructure quality for communities, and less tax revenue and lower levels of funding for social insurance programs for state governments.

Sources Listed by Release Year

Kelsay, Michael. (2023). *Worker Misclassification and Wage Theft in the Construction Industry in Missouri*. University of Missouri-Kansas City.

Key Finding: In 2020, 21% of workers in Missouri’s construction industry were either misclassified as independent contractors or working “off-the-books” in cash-only arrangements. Misclassification and wage theft in the construction industry cost construction workers between \$334 million and \$465 million in lost wages and fringe benefits annually. Payroll fraud also costs Missouri \$69 million in lost workers’ compensation contributions, \$28 million in lost unemployment insurance contributions, and \$45 million in forgone state income tax revenue.

Ormiston, Russell and Tom Juravich. (2022). *Worker Misclassification and Wage Theft in Rhode Island*. Allegheny College; University of Massachusetts-Amherst; Institute for Construction Employment Research (ICERES).

Key Finding: Rhode Island employers misclassified 4% of the state’s workforce in 2019, representing more than 19,000 workers. In construction, 12% of construction employers are misclassifying workers, affecting 8% of the industry workforce. Payroll fraud costs taxpayers between \$25 million and \$54 million annually.

Juravich, Tom; Russell Ormiston; and Dale Belman. (2021). *The Social and Economic Costs of Illegal Misclassification, Wage Theft, and Tax Fraud in Residential Construction in Massachusetts*. University of Massachusetts-Amherst; Allegheny College; Michigan State University; Institute for Construction Employment Research (ICERES).

Key Finding: Audits of employer payrolls from 2017 to 2019 indicate that more than one-in-six Massachusetts construction employers (17% to 18%) misclassify their workers as independent contractors. Utilizing a well-established empirical approach of indirectly estimating the full extent of misclassification, there were between 22,000 and 37,000 workers affected by wage and tax fraud in 2019, accounting for 9% to 16% of the industry’s workforce. This was especially prevalent among building finishing contractors (e.g., drywall, finish carpentry, painting). This led to \$41 million in lost unemployment insurance contributions \$41 million in lost income taxes, and \$78 million in lost workers’ comp premiums in 2019.

Construction Industry Tax Fraud. (2021). *Construction Industry Insurance Fraud*. StopTaxFraud.net.

Key Finding: This one-page fact sheet describes workers’ compensation insurance premium fraud, notes that losses are estimated at \$2 billion nationwide, and tells people how they can help.

Construction Industry Tax Fraud. (2020). *Construction Industry Poor Safety Standards*. StopTaxFraud.net.

Key Finding: This one-page fact sheet notes that contractors who skirt workers’ comp, wage, and tax laws often cut corners with safety and that tax fraud robs state and federal governments out of \$8.4 billion per year.

Construction Industry Tax Fraud. (2020). *Construction Industry Wage Theft*. StopTaxFraud.net.

Key Finding: This one-page fact sheet describes wage theft, notes that construction workers have \$946 million a year stolen from them, and tells people how they can help.

Ormiston, Russell; Dale Belman; and Mark Erlich. (2020). *An Empirical Methodology to Estimate the Incidence and Costs of Payroll Fraud in the Construction Industry*. Allegheny College; Michigan State University; Harvard University.

Key Finding: In the average month in 2017, between 12% and 21% of construction industry workers were misclassified as independent contractors or working strictly off-the-books. Over the peak summer months, this increased to between 13% and 22%. Due to payroll fraud, contractors illegally reduce labor costs by between \$6.2 billion and \$11.7 billion per year. State workers’ compensations programs experienced a \$1.7 billion shortfall due to misclassification. State unemployment insurance plans experienced a shortfall of up to \$725 million. State income tax revenues are \$552 million lower. As much as \$4.3 billion owed to Social Security and Medicare and \$1.3 billion in federal income taxes was never paid in 2017 due to payroll fraud. Under federal wage statutes, workers are entitled to time-and-a-half for hours worked over 40 hours per week and to premium pay for work over holidays. Employers who misclassify workers as independent contractors can avoid paying these additional wages, resulting in \$811 million to \$1 billion in unpaid overtime and premium wages.

Erlich, Mark. (2020). “Misclassification in Construction: The Original Gig Economy.” *Industrial and Labor Relations Review*, 1-29.

Key Finding: The misclassification of workers as independent contractors has predated the app-based gig economy, particularly in construction where a cash-based underground system of compensation has lowered standards and been among the major causes of the decline of union density.

Moe, Lina; James Parrott; and Jason Rochford. (2020). *The Magnitude of Low-Paid Gig and Independent Contract Work in New York State*. The New School.

Key Finding: 17.5% of low-wage independent contractors in New York worked in construction.

Erlich, Mark and Terri Gerstein. (2019). *Confronting Misclassification and Payroll Fraud: A Survey of State Labor Standards Enforcement Agencies*. Harvard Law School.

Key Finding: Misclassification, a tactic used by employers to reduce labor costs by depriving workers of protections, creates a non-competitive environment against law-abiding employers paying market-based wages and benefits.

Bureau of Labor Statistics (BLS). (2018). *Contingent and Alternative Employment Arrangement News Release*. U.S. Department of Labor.

Key Finding: In 2017, 19% of independent contractors worked in the construction industry. See Table 8.

Cooper, David and Teresa Kroeger. (2017). *Employers Steal Billions from Workers’ Paychecks Each Year: Survey Data Show Millions of Workers Are Paid Less than the Minimum Wage, At Significant Cost to Taxpayers and State Economies*. Economic Policy Institute.

Key Finding: Nationwide, wage theft costs up to \$15 billion. Misclassification is one tactic that enables wage theft.

Katz, Lawrence and Alan Krueger. (2016). *The Rise and Nature of Alternative Work Arrangements in the United States, 1995-2015*. Harvard University; Princeton University.

Key Finding: From 1995 to 2015, non-traditional employment rose from 11% to 16%, with online intermediary work, such as Uber and TaskRabbit, accounting for only 0.5% of workers as of 2015. Workers in non-traditional employment relationships earn less when compared to similar workers in traditional employment relationships.

Locke, Mandy and Franco Ordonez. (2015). “Taxpayers and Workers Gouged by Labor-Law Dodge.” *McClatchy DC Bureau*.

Key Finding: Misclassification allows fraudulent contractors to underbid law-abiding businesses on publicly-funded construction projects, as evidenced by contracts awarded in the economic stimulus following the Great Recession.

Carré, Françoise. (2015). *(In)dependent Contractor Misclassification*. Economic Policy Institute.

Key Finding: State-level studies show that 10%-20% of employers misclassify workers independent contractors.

Kelsay, Michael and James Sturgeon. (2011). *The Economic Costs of Employee Misclassification in the Construction Sector in the Commonwealth of Kentucky*. University of Missouri-Kansas City.

Key Finding: 26% of construction employers in Kentucky were engaged in misclassification.

Kelsay, Michael and James Sturgeon. (2010). *The Economic Costs of Employee Misclassification in the State of Indiana*. University of Missouri-Kansas City.

Key Finding: Nearly half (47.5%) of audited employers in Indiana were engaged in misclassification.

Belman, Dale and Richard Block. (2009). *The Social and Economic Costs of Employee Misclassification in Michigan*. Michigan State University.

Key Finding: 26% of construction firms misclassified employees. Among those who did so, 19% of their employees were misclassified (i.e., 6% of the entire industry workforce), costing the state over \$2 million in UI tax revenue.

Worker Misclassification Disproportionately Affects Vulnerable Populations

There is currently no federal law against worker misclassification. When the Department of Labor investigates misclassification cases, it is often by proxy of investigating Fair Labor Standards Act violations such as minimum wage violations, which frequently coincide with misclassification cases (GAO, 2009). As a result, worker misclassification is often an issue decided by state law, meaning those affected most by wage theft and payroll fraud are generally people who do not have federal avenues. Research has found that 43% of workers who have a legal complaint against their employers do not proceed with their complaints formally, citing lack of confidence in the claims or lack of legal knowledge and resources as the primary reasons (Alexander & Prasad, 2014). Additionally, a CBS News investigation of 650,000 complaints across the United States found that state agencies only ruled in favor of claimants about half the time—and claimants are not compensated in one-third of successful cases (Hacker et al., 2023). Lack of resources and unpunished violators lead to misclassification and payroll fraud among vulnerable workers.

Immigrants are a vulnerable group that is particularly susceptible to wage theft. Research shows that both authorized immigrants and undocumented workers are more likely to experience wage theft in their employment. However, it is estimated that more than 1-in-10 construction workers are undocumented workers (Isser, 2023). Immigrant workers may be forced to endure conditions that are exploitative for fear that their immigration status, or that of their co-workers, will be questioned (Cooper & Kroeger, 2017). Immigrants working in construction are often subject to misclassification and late payment of wages, and many do not engage in remedial paths as they have little hope that they will recover wages that were stolen. It is common that companies will completely liquidate to avoid repayment of stolen wages, leaving workers without compensation of any kind (Juravich, Ablavsky, & Williams, 2015). Some construction contractors have been convicted on charges of forced labor—recruiting undocumented workers from Mexico and then refusing to pay them while threatening them with violence or deportation so they would not complain (Slowey, 2019).

Immigrants are overrepresented in independent contractor populations, which is especially harmful because hiring independent contractors allows employers to bypass the Immigration Reform and Control Act (Moe, Parrot, & Rochford, 2020). By bypassing IRCA, employers do not verify the immigration status of their workers and benefit financially by exploiting those whom they suspect to be unauthorized (Carré, 2015). This puts migrant laborers in a precarious situation in which complaints that lead to federal investigations could result in personal consequences, especially when Memoranda of Understanding between the U.S. Department of Labor and the U.S. Immigration and Customs Enforcement expire (Hallett, 2018).

While vulnerable populations are particularly susceptible to misclassification, other demographic groups are not immune. Research indicates that during the growth of misclassification in the early 2000s, almost two-thirds of workers classified as independent contractors were white and had some college or higher-level education (GAO, 2007). Misclassification rates among construction workers in some states are as high as 40%, making it a practice most construction workers will encounter during their careers (Ruckelshaus, 2007). Steps can be taken to protect all workers—regardless of their citizenship or immigration status—from the problem of illegal misclassification and wage theft.

[Sources Listed by Release Year](#)

Hacker, Chris; Ash-Har Quraishi; Amy Corral; Ryan Beard. (2023). “Wage Theft Often Goes Unpunished Despite State Systems Meant to Combat It.” *CBS News*.

Key Finding: Even when wage theft is reported, employers often manage to avoid paying back the wages they owe. CBS News submitted public records requests to nearly every state labor department in the country and built a database of more than 650,000 total complaints. Of those cases, state agencies ruled in favor of claimants only about half of the time. Even when workers won their claims, more than a third of those successful cases—totaling nearly \$1 billion—showed no money was ever recovered. Finally, if wage theft was treated the same as felony theft (or the threshold at which a misdemeanor street crime becomes a felony), 177,000 wage theft cases in 25 states could have been felony cases. This includes over 25% of cases in New Jersey, Illinois, Massachusetts, New Hampshire, Kentucky, Indiana, Maryland, New York, Maine, Montana, Minnesota, Kansas, Utah, and Michigan.

Moe, Lina; James Parrott; and Jason Rochford. (2020). *The Magnitude of Low-Paid Gig and Independent Contract Work in New York State*. The New School.

Key Finding: 17.5% of low-wage independent contractors in New York worked in construction. The Immigration Reform and Control Act requires employers to verify each employee’s eligibility to work in the United States to ensure that they are accounted for in payroll taxes and insurance coverage. Independent contractors, however, do not need their eligibility verified, allowing employers to hire undocumented workers and deprive them of benefits and insurance coverage.

Slowey, Kim. (2019). “Contractor Faces 20 Years in Prison for Forced Labor.” *Construction Dive*.

Key Finding: An owner of several construction companies was convicted on charges of forced labor. The contractor recruited undocumented workers from Mexico and then refused to pay them. If they complained, he threatened them—and their families—with violence or with deportation.

Hallett, Nicole. (2018). “The Problem of Wage Theft.” *Yale Law & Policy Review*, 37(1): 93.

Key Finding: A Memorandum of Understanding was in place between the Department of Labor and the Immigration and Customs Enforcement agency that prevented undocumented workers from being deported if their immigration status was uncovered as a result of investigations into labor violations. When these memoranda expire, they may face deportation, which disincentivizes immigrants from reporting labor violations.

Cooper, David and Teresa Kroeger. (2017). *Employers Steal Billions from Workers’ Paychecks Each Year: Survey Data Show Millions of Workers Are Paid Less than the Minimum Wage, At Significant Cost to Taxpayers and State Economies*. Economic Policy Institute.

Key Finding: Nationwide, wage theft costs up to \$15 billion. Misclassification is one tactic that enables wage theft. Due to fear of deportation, immigrant workers are more likely to endure harmful and exploitative working conditions without reporting them. They are also less aware of appropriate reporting avenues.

Alexander, Charlotte. (2017). “Misclassification and Antidiscrimination: An Empirical Analysis.” *Minnesota Law Review*, 101. 907-962.

Key Finding: According to Census and Social Security Administration data, the industries where misclassification is most prevalent include real estate, construction, truck drivers, and barbers and cosmetologists. In the years 2005-2014, misclassification was brought as an argument in Title VII discrimination cases predominantly by physicians, surgeons, and insurance salespeople. This suggests the workers most affected do not pursue legal recourse due to lack of resources.

Carré, Françoise. (2015). *(In)dependent Contractor Misclassification*. Economic Policy Institute.

Key Finding: State-level studies show that 10%-20% of employers misclassify workers independent contractors. High workers’ compensation premiums in injury-prone industries such as construction create a financial incentive for employers to hire workers, such as undocumented workers, who will not be covered by workers’ compensation.

Juravich, Tom; Essie Ablavsky; and Jake Williams. (2015). *The Epidemic of Wage Theft in Residential Construction in Massachusetts*. University of Massachusetts Amherst.

Key Finding: Due to the transient nature of undocumented workers, many working in the construction industry never receive the wages they are owed.

Alexander, Charlotte and Arthi Prasad. (2014). “Bottom-Up Workplace Enforcement: An Empirical Analysis.” *Indiana Law Journal*, 89: 1069-1131.

Key Finding: As worker power and stability decreases, so does their legal knowledge and ability to contest labor violations in the courts. 43% of workers who experience a workplace problem with their employer did not pursue the claim in court for fear of retaliation or lack of confidence in their claim. 43% of workers who did make a formal experienced retaliation in the form of termination, suspension, decreases in hours, or reporting the worker to law enforcement agencies.

Government Accountability Office (GAO). (2009). *Employee Misclassification: Improved Coordination, Outreach, and Targeting Could Better Ensure Detection and Prevention*.

Key Finding: Misclassification of workers enables other forms of wage theft, such as minimum wage theft. These minimum wage violations are investigated under the Fair Labor Standards Act, which does not address misclassification.

Government Accountability Office (GAO). (2007). *Employee Misclassification: Improved Outreach Could Help Ensure Proper Worker Classification*.

Key Finding: A majority of independent contractors in construction were white, middle-aged men with at least some college education. These demographic characteristics did not prevent them from being misclassified.

Ruckelshaus, Catherine. (2007). *Providing Fairness to Workers Who Have Been Misclassified as Independent Contractors*. National Employment Law Project (NELP). Testimony before the Subcommittee on Workforce Protections of the Committee on Education on Labor in the U.S. House of Representatives.

Key Finding: Research estimates that misclassification rates in the construction industry could be as high as 40%. Later research corroborated that misclassification was a growing practice at the time of this testimony.

Wage Theft is a Crime Against Construction Workers

Worker misclassification allows employers to avoid paying market-competitive wages and to bypass labor standards. This includes Davis-Bacon prevailing wage rates on federal projects, state prevailing wage laws, and federal and state minimum wage laws. Workers classified as independent contractors earn less in comparison to workers classified as employees doing similar work. Nationally, construction workers who are misclassified as independent contractors earn as much as \$16,700 less per year, or 32% less, in income compared to what they would have earned as employees (Schmitt et al., 2023). Similarly, in Illinois, Wisconsin, and Minnesota, misclassified construction workers earned between 29% and 36% less than their properly classified co-workers in total wages and fringe benefits. The effect is staggering: misclassified construction workers were paid between \$23,000 and \$26,000 less in total annual compensation than they would have been paid if they were properly classified (Goodell & Manzo, 2021).

Misclassification harms workers by depriving them of benefits, such as overtime pay, workers' compensation, unemployment insurance, and paid leave. Nationwide, researchers estimate that between \$811 million and \$1 billion in owed overtime and premium pay goes unpaid to misclassified construction workers (Ormiston, Belman, & Erlich, 2020). State-level studies in Missouri, Rhode Island, Nevada, Massachusetts, New York, Tennessee, and Michigan confirm that misclassification deprives workers of these vital benefits (Kelsay, 2023; Ormiston & Juravich, 2022; Waddoups, Duncan, & Ormiston, 2021; Juravich, Ormiston, & Belman, 2021; Ormiston, Erlich, & Belman, 2021; Canak & Adams, 2010; Belman & Block, 2009). Estimates from the construction industries in Illinois, Wisconsin, and Minnesota indicate that misclassified workers experience a 62% to 66% decline in their non-monetary benefits (Goodell & Manzo, 2021). In a case study of the Austin, Texas construction industry, around 71% of poverty-wage workers had no access to workers' compensation coverage due to misclassification (Cox, Timm, & Tzintzún, 2009). When workers' compensation systems are underfunded due to the underground market, the premiums paid by law-abiding businesses must go up to make up the deficit, which can result in lower worker wages in the legal market as employers pay less to compensate for their increase in premiums (Goh, 2004).

Independent contractors are also not offered employer-sponsored health insurance plans. Even federally-funded jobs have not always provided benefits equally, with almost 20% of independent contractors unable to earn a living wage and without access to employer-sponsored health care coverage (Edwards & Filion, 2009). As a result, a large portion of construction workers and their families are dependent upon social safety net programs (Jacobs & Huang, 2021; Theodore & Doussard, 2006).

There are avenues for recovery for workers victimized by the crime of wage theft. State agencies may order unpaid wages be paid; however, unscrupulous employers are likely to avoid paying even after litigation. Research from California indicates that only 42% of stolen wages are recovered by victims of wage theft. Even worse, just 17% of workers who prevailed in a wage theft claim in California recovered any wages at all (Cho, Koonse, & Mischel, 2013). Similarly, a CBS News investigation of 650,000 complaints across the United States found that state agencies only ruled in favor of claimants about half the time—and claimants are not compensated in one-third of successful cases (Hacker et al., 2023). Despite these challenges, workers nationwide were able to recover \$5.2 billion through the U.S. Department of Labor, state agencies, and class action lawsuits from 2015 through 2020 (McNicholas, Mokhiber, & Chalkof, 2017; Mangundayao et al., 2021).

Sources Listed by Release Year

Schmitt, John; Heidi Shierholz; Margaret Poydock; and Samantha Sanders. (2023). *The Economic Costs of Worker Misclassification*. Economic Policy Institute.

Key Finding: When employers misclassify workers as independent contractors, they deprive them of fundamental labor rights. In construction, an independent contractor loses out on as much as \$16,729 per year in income (32%) from being misclassified as an independent contractor compared with what they would have earned as an employee. Revenue for social insurance programs—Social Security, Medicare, Workers’ Compensation, and federal and state unemployment insurance—decreases by as much as \$2,965 per construction worker per year due to misclassification as well (32%).

Hacker, Chris; Ash-Har Quraishi; Amy Corral; Ryan Beard. (2023). “Wage Theft Often Goes Unpunished Despite State Systems Meant to Combat It.” *CBS News*.

Key Finding: Even when wage theft is reported, employers often manage to avoid paying back the wages they owe. CBS News submitted public records requests to nearly every state labor department in the country and built a database of more than 650,000 total complaints. Of those cases, state agencies ruled in favor of claimants only about half of the time. Even when workers won their claims, more than a third of those successful cases—totaling nearly \$1 billion—showed no money was ever recovered. Finally, if wage theft was treated the same as felony theft (or the threshold at which a misdemeanor street crime becomes a felony), 177,000 wage theft cases in 25 states could have been felony cases. This includes over 25% of cases in New Jersey, Illinois, Massachusetts, New Hampshire, Kentucky, Indiana, Maryland, New York, Maine, Montana, Minnesota, Kansas, Utah, and Michigan.

Ormiston, Russell and Tom Juravich. (2022). *Worker Misclassification and Wage Theft in Rhode Island*. Allegheny College; University of Massachusetts-Amherst; Institute for Construction Employment Research (ICERES).

Key Finding: Rhode Island employers misclassified 4% of the state’s workforce in 2019, representing more than 19,000 workers. In construction, 12% of construction employers are misclassifying workers, affecting 8% of the industry workforce. Payroll fraud costs taxpayers between \$25 million and \$54 million annually.

Waddoups, Jeffrey; Kevin Duncan; and Russell Ormiston. (2021). *Payroll Fraud in Nevada’s Construction Industry: Extent and Fiscal Impact*. University of Nevada, Las Vegas; Colorado State University-Pueblo; Allegheny College; Institute for Construction Employment Research (ICERES).

Key Finding: There were about 12,700 workers who were either misclassified as independent contractors or employed off-the-books in Nevada’s construction industry in 2018, representing 11% of the industry and 14% of blue-collar construction workforce. This resulted in \$31 million in unpaid workers’ comp premiums, a \$12 million shortfall in the state UI fund, and \$7 million in uncollected tax revenue via the Modified Business Tax.

Juravich, Tom; Russell Ormiston; and Dale Belman. (2021). *The Social and Economic Costs of Illegal Misclassification, Wage Theft, and Tax Fraud in Residential Construction in Massachusetts*. University of Massachusetts-Amherst; Allegheny College; Michigan State University; Institute for Construction Employment Research (ICERES).

Key Finding: Audits of employer payrolls from 2017 to 2019 indicate that more than one-in-six Massachusetts construction employers (17% to 18%) misclassify their workers as independent contractors. Utilizing a well-established empirical approach of indirectly estimating the full extent of misclassification, there were between 22,000 and 37,000 workers affected by wage and tax fraud in 2019, accounting for 9% to 16% of the industry’s workforce. This was especially prevalent among building finishing contractors (e.g., drywall, finish carpentry, painting). This led to \$41 million in lost unemployment insurance contributions \$41 million in lost income taxes, and \$78 million in lost workers’ comp premiums in 2019.

Jacobs, Ken and Kuochih Huang. (2021). *The Public Cost of Low-Wage Jobs in California’s Construction Industry*. University of California, Berkeley.

Key Finding: 48% of families in which at least one adult who works in construction are enrolled in public safety net programs such as Medicaid, CHIP, EITC, and SNAP at an estimated annual cost of \$3 billion.

Mangundayao, Ihna; Celine McNicholas; Margaret Poydock; and Ali Sait. (2021). *More Than \$3 Billion in Stolen Wages Recovered for Workers Between 2017 and 2020*. Economic Policy Institute.

Key Finding: Between 2017 and 2020, \$3.24 billion in stolen wages was recovered on behalf of workers by the U.S. Department of Labor, state departments of labor and attorneys general, and through class and collective action litigation—but this represents just a small portion of wages stolen from workers across the country. Potential policy options include increasing funding for the Department of Labor’s Wage and Hour Division, engaging in proactive and strategic enforcement in industries where violations are especially rampant, enhancing civil monetary penalties for violations, protecting worker rights to unionize, and boosting funding for state and local enforcement.

Ormiston, Russell; Mark Erlich; and Dale Belman. (2021). *Payroll Fraud in New York’s Construction Industry: Estimating its Prevalence, Severity and Economic Costs*. Allegheny College; Harvard University; Michigan State University; Institute for Construction Employment Research (ICERES).

Key Finding: There were between 76,000 and 126,000 workers who were either misclassified as independent contractors or employed off-the-books in New York’s construction industry in 2017, representing 13% to 21% of all construction workers. This resulted in \$289 million in unpaid workers’ comp premiums and a \$49 million shortfall in the state UI fund.

Goodell, Nathaniel and Frank Manzo IV. (2021). *The Costs of Wage Theft and Payroll Fraud in the Construction Industries of Wisconsin, Minnesota, and Illinois: Impacts on Workers and Taxpayers*. Midwest Economic Policy Institute.

Key Finding: When compared to employees doing similar work, independent contractors earn about 30% in total compensation in the construction industries of Wisconsin, Minnesota, and Illinois. This includes 13%-22% less in annual wages and 62%-66% in total benefits. Wage theft and payroll fraud cost a total of \$362 million in lost state income taxes, unemployment insurance contributions, and workers’ compensation premiums in these three states every year.

Ormiston, Russell; Dale Belman; and Mark Erlich. (2020). *An Empirical Methodology to Estimate the Incidence and Costs of Payroll Fraud in the Construction Industry*. Allegheny College; Michigan State University; Harvard University.

Key Finding: In the average month in 2017, between 12% and 21% of construction industry workers were misclassified as independent contractors or working off-the-books. Due to payroll fraud, contractors illegally reduce labor costs by \$6.2 billion to \$11.7 billion per year. State workers’ comp programs experienced a \$1.7 billion shortfall due to misclassification. State UI plans experienced a shortfall of up to \$725 million. State income tax revenues are \$552 million lower. As much as \$4.3 billion owed to Social Security and Medicare and \$1.3 billion in federal income taxes was never paid in 2017 due to payroll fraud. Under federal wage statutes, workers are entitled to time-and-a-half for hours worked over 40 hours per week and to premium pay for work over holidays. Employers who misclassify workers as independent contractors can avoid paying these additional wages, resulting in \$811 million to \$1 billion in unpaid overtime and premium wages.

McNicholas, Celine; Zane Mokhiber; and Adam Chalkof. (2017). *Two Billion Dollars in Stolen Wages Were Recovered for Workers in 2015 and 2016 – and That’s Just a Drop in the Bucket*. Economic Policy Institute.

Key Finding: In 2015 and 2016, \$2 billion in stolen wages were repaid to victims of wage theft through litigation, state agency action, and class-action lawsuits. This figure is likely well below the amount actually stolen by wage theft yearly.

Cho, Eunice Hyunhye; Tia Koonse; and Anthony Mischel. (2015). *Hollow Victories: The Crisis in Collecting Unpaid Wages for California’s Workers*. National Employment Law Project; University of California, Los Angeles.

Key Finding: Only 42% of unpaid wages due to wage theft were recovered after being awarded to victims by the California Department of Labor Standards Enforcement. The low chances of repayment combined with the exhaustive litigative process dissuades many from filing claims of wage theft.

Canak, William and Randall Adams. (2010). *Misclassified Construction Employees in Tennessee*. Middle Tennessee State University; Tennessee Technical University.

Key Finding: Between 12,000 and 39,000 construction workers are misclassified or unreported, affecting 11% to 21% of the construction workforce. Losses to state and federal programs were up to \$15 million for the state’s UI program, \$92 million in worker’s compensation premiums, \$73 million in federal income tax, and \$42 million in Social Security funding.

Belman, Dale and Richard Block. (2009). *The Social and Economic Costs of Employee Misclassification in Michigan*. Michigan State University.

Key Finding: 26% of construction firms misclassified employees. Among those who did so, 19% of their employees were misclassified (i.e., 6% of the entire industry workforce), costing the state over \$2 million in UI tax revenue.

Edwards, Kathryn and Kai Filion. (2009). *Outsourcing Poverty: Federal Contracting Pushes Down Wages and Benefits*. Economic Policy Institute.

Key Finding: From 2006 to 2007, the number of federal contract workers grew from 1.4 million to 2 million. Nearly 20% of these contract workers were unable to earn a living wage and did not have the same access to healthcare and retirement plans as provided to federal employees.

Cox, Lauren; Emily Timm; and Cristina Tzintzún. (2009). *Building Austin, Building Injustice*. Workers Defense Project; The University of Texas at Austin.

Key Finding: Access to workers' compensation is one aspect of total compensation and benefits and is especially valuable in injury-prone industries such as construction. Removing workers' access to workers' compensation places the financial burden of medical care on workers, as well as public hospitals and safety net programs like Medicaid.

Theodore, Nik and Marc Doussard. (2006). *The Hidden Public Cost of Low-Wage Work in Illinois*. University of Illinois at Chicago.

Key Finding: Low-wage jobs in 2001-2004 caused working families to rely on government assistance programs. These families constituted 37% of public benefits spending in Illinois, including \$92 million on families with construction workers.

Goh, Yong Lee. (2004). *The Effect of Higher Workers' Compensation Premium Rates on Construction Worker Wages and the Reporting of Injuries*. University of Utah.

Key Finding: As workers' compensation premiums rise in construction, workers experience a significant decrease in wages as well as pressure from employers to not report injuries and utilize workers' compensation for medical care.

Wage Theft is a Crime Against the Taxpayer

Worker misclassification leads to shortfalls in government revenue. Employers withhold state and federal income taxes and make contributions to Social Security, Medicare, and state unemployment insurance and workers' compensation systems on behalf of all workers on their payrolls. By misclassifying employees as "independent contractors," fraudulent contractors leave workers fully responsible for reporting their incomes, paying taxes, and paying the full amount due to public programs like Social Security and Medicare.

Research indicates that misclassified workers would earn higher wages if they were correctly considered employees. That additional income would be subject to state taxes. Furthermore, if they were not illegally paid in cash, the earnings of "off-the-books" construction workers would be fully reported and would be taxed. The result is that the federal government loses up to \$1.3 billion in income tax revenues and up to \$4.3 billion in Social Security and Medicare revenues due to misclassification and payroll fraud in construction ([Ormiston, Belman, & Erlich, 2020](#)). States lose \$1.7 billion in workers' compensation payments, over \$700 million in unemployment insurance contributions, and \$552 million in income tax revenues due to misclassification and payroll fraud in construction ([Ormiston, Belman, & Erlich, 2020](#)). Another national study estimates that revenue for Social Security, Medicare, workers' compensation, and federal and state unemployment insurance decreases by as much as \$3,000 (or 32%) per construction worker who is misclassified as an independent contractor ([Schmitt et al., 2023](#)).

Numerous state-level studies confirm budget shortfalls caused by construction worker misclassification. In California, the unemployment insurance system is cheated of \$63 million and workers' compensation system loses another \$264 million every year due to misclassification and payroll fraud in construction ([Liu, Flaming, & Burns, 2014](#)). In the construction industries of Illinois, Wisconsin, and Minnesota, more than \$360 million is lost each year in income taxes, unemployment insurance contributions, and workers' comp premiums ([Goodell & Manzo, 2021](#)). Studies in Missouri, Rhode Island, Nevada, Massachusetts, New York, Tennessee, and Michigan have found similar impacts ([Kelsay, 2023](#); [Ormiston & Juravich, 2022](#); [Waddoups, Duncan, & Ormiston, 2021](#); [Juravich, Ormiston, & Belman, 2021](#); [Ormiston, Erlich, & Belman, 2021](#); [Canak & Adams, 2010](#); [Belman & Block, 2009](#)).

Because misclassification reduces worker earnings and causes wage theft, fraudulent contractors create burdens on public services funded by taxpayers. Workers who have been misclassified are less likely to have private health insurance coverage—due to the drop in employer-sponsored health insurance coverage—and are more likely to rely on Medicaid ([Greenstein, 2018](#)). Underfunding of workers' compensation systems can shift the financial burden of treatment to public safety nets and local hospitals, with 20% of injured construction workers not being compensated for their injury in any way by their employers ([Cox, Timm, & Tzintzún, 2009](#)). In California, a recent study found that 48% of all families where at least one adult works in construction are enrolled in means-tested government assistance programs like Medicaid, the Earned Income Tax Credit (EITC), or Supplemental Nutrition Assistance Program (SNAP) food stamps. The cost to state public services is estimated at \$3 billion per year ([Jacobs & Huang, 2021](#)).

All workers and law-abiding businesses are forced to pay more in taxes, unemployment insurance contributions, and workers' compensation premiums to cover the deficit caused by payroll fraud in construction. Because contractors with wage and safety violations produce lower-quality public works projects, taxpayers are also forced to pay more to maintain, repair, or replace infrastructure built by unscrupulous contractors who commit misclassification ([Sonn & Gebreselassie, 2009](#)). As a result, wage theft is a crime against taxpayers.

Sources Listed by Release Year

Schmitt, John; Heidi Shierholz; Margaret Poydock; and Samantha Sanders. (2023). *The Economic Costs of Worker Misclassification*. Economic Policy Institute.

Key Finding: When employers misclassify workers as independent contractors, they deprive them of fundamental labor rights. In construction, an independent contractor loses out on as much as \$16,729 per year in income (32%) from being misclassified as an independent contractor compared with what they would have earned as an employee. Revenue for social insurance programs—Social Security, Medicare, Workers' Compensation, and federal and state unemployment insurance—decreases by as much as \$2,965 per construction worker per year due to misclassification as well (32%).

Kelsay, Michael. (2023). *Worker Misclassification and Wage Theft in the Construction Industry in Missouri*. University of Missouri-Kansas City.

Key Finding: In 2020, 21% of workers in Missouri's construction industry were either misclassified as independent contractors or working "off-the-books" in cash-only arrangements. Misclassification and wage theft in the construction industry cost construction workers between \$334 million and \$465 million in lost wages and fringe benefits annually. Payroll fraud also costs Missouri \$69 million in lost workers' compensation contributions, \$28 million in lost unemployment insurance contributions, and \$45 million in forgone state income tax revenue.

Juravich, Tom; Russell Ormiston; and Dale Belman. (2021). *The Social and Economic Costs of Illegal Misclassification, Wage Theft, and Tax Fraud in Residential Construction in Massachusetts*. University of Massachusetts-Amherst; Allegheny College; Michigan State University; Institute for Construction Employment Research (ICERES).

Key Finding: Audits of employer payrolls from 2017 to 2019 indicate that more than one-in-six Massachusetts construction employers (17% to 18%) misclassify their workers as independent contractors. Utilizing a well-established empirical approach of indirectly estimating the full extent of misclassification, there were between 22,000 and 37,000 workers affected by wage and tax fraud in 2019, accounting for 9% to 16% of the industry's workforce. This was especially prevalent among building finishing contractors (e.g., drywall, finish carpentry, painting). This led to \$41 million in lost unemployment insurance contributions \$41 million in lost income taxes, and \$78 million in lost workers' comp premiums in 2019.

Ormiston, Russell; Mark Erlich; and Dale Belman. (2021). *Payroll Fraud in New York's Construction Industry: Estimating its Prevalence, Severity and Economic Costs*. Allegheny College; Harvard University; Michigan State University; Institute for Construction Employment Research (ICERES).

Key Finding: There were between 76,000 and 126,000 workers who were either misclassified as independent contractors or employed off-the-books in New York's construction industry in 2017, representing 13% to 21% of all construction workers. This resulted in \$289 million in unpaid workers' comp premiums and a \$49 million shortfall in the state UI fund.

Jacobs, Ken and Kuochih Huang. (2021). *The Public Cost of Low-Wage Jobs in California's Construction Industry*. University of California, Berkeley.

Key Finding: 48% of families in which at least one adult who works in construction are enrolled in public safety net programs such as Medicaid, CHIP, EITC, and SNAP at an estimated annual cost of \$3 billion.

Goodell, Nathaniel and Frank Manzo IV. (2021). *The Costs of Wage Theft and Payroll Fraud in the Construction Industries of Wisconsin, Minnesota, and Illinois: Impacts on Workers and Taxpayers*. Midwest Economic Policy Institute.

Key Finding: When compared to employees doing similar work, independent contractors earn about 30% in total compensation in the construction industries of Wisconsin, Minnesota, and Illinois. This includes 13%-22% less in annual wages and 62%-66% in total benefits. Wage theft and payroll fraud cost a total of \$362 million in lost state income taxes, unemployment insurance contributions, and workers' compensation premiums in these three states every year.

Ormiston, Russell; Dale Belman; and Mark Erlich. (2020). *An Empirical Methodology to Estimate the Incidence and Costs of Payroll Fraud in the Construction Industry*. Allegheny College; Michigan State University; Harvard University.

Key Finding: In the average month in 2017, between 12% and 21% of construction industry workers were misclassified as independent contractors or working strictly off-the-books. Due to payroll fraud, state workers' compensations programs experienced a \$1.7 billion shortfall due to misclassification. State unemployment insurance plans experienced a shortfall of up to \$725 million. State income tax revenues are \$552 million lower. As much as \$4.3 billion owed to Social Security and Medicare and \$1.3 billion in federal income taxes was never paid in 2017 due to payroll fraud.

Greenstein, Robert. (2018). *Health Coverage Progress Stalls – Even as Economy Reduces Poverty, Boosts Income*. Center on Budget and Policy Priorities.

Key Finding: While poverty rates fell and median income rose in 2017, health insurance coverage did not increase nationally. 8.8% of the U.S. population, 28.5 million people, were not covered by health insurance in 2017, mostly being low wage working adults and their dependents.

Yen Liu, Yvonne; Daniel Flaming; and Patrick Burns. (2014). *Sinking Underground: The Growing Informal Economy in California Construction*. Economic Roundtable.

Key Finding: An analysis of California's construction industry found that 16% of construction workers were employed in the informal economy in 2011, including 104,100 construction workers who were not reported by their employers and 39,800 who were misclassified as independent contractors. The "informal tax gap" results in \$774 million in lost revenue from payroll taxes alone—\$301 million to the federal government and \$473 million to California.

Canak, William and Randall Adams. (2010). *Misclassified Construction Employees in Tennessee*. Middle Tennessee State University; Tennessee Technical University.

Key Finding: Between 12,000 and 39,000 construction workers are misclassified or unreported, affecting 11% to 21% of the construction workforce. Losses to state and federal programs were up to \$15 million for the state's UI program, \$92 million in worker's compensation premiums, \$73 million in federal income tax, and \$42 million in Social Security funding.

Belman, Dale and Richard Block. (2009). *The Social and Economic Costs of Employee Misclassification in Michigan*. Michigan State University.

Key Finding: 26% of construction firms misclassified employees. Among those who did so, 19% of their employees were misclassified (i.e., 6% of the entire industry workforce), costing the state over \$2 million in UI tax revenue.

Sonn, Paul and Tsedeye Gebreselassie. (2009). *The Road to Responsible Contracting: Lessons from States and Cities for Ensuring That Federal Contracting Delivers Good Jobs and Quality Services*. National Employment Law Project (NELP); University of California, Berkeley.

Key Finding: A 1983 Housing and Urban Development audit found an inverse relationship between wage violations and quality of projects for federally-funded construction.

Cox, Lauren; Emily Timm; and Cristina Tzintzún. (2009). *Building Austin, Building Injustice*. Workers Defense Project; The University of Texas at Austin.

Key Finding: Access to workers' compensation is one aspect of total compensation and benefits and is especially valuable in injury-prone industries such as construction. 20% of construction workers in Austin who experienced an injury were not able to take advantage of workers' compensation due to their status as independent contractors. This cost was largely absorbed by public hospitals caring for the injured workers.

Theodore, Nik and Marc Doussard. (2006). *The Hidden Public Cost of Low-Wage Work in Illinois*. University of Illinois at Chicago.

Key Finding: Low-wage jobs in 2001-2004 caused working families to rely on government assistance programs. These families constituted 37% of public benefits spending in Illinois, including \$92 million on families with construction workers.

Ways to Combat Payroll Fraud and Wage Theft in Construction

The U.S. public believes that the misclassification of workers as independent contractors is a significant problem (NELP, 2016). In a national survey of 1,000 registered voters, 84% said that misclassification is a serious problem. Another 78% of voters favor proposals that would make it harder for companies to misclassify workers as independent contractors and increase fines and penalties for misclassification, including 73% of Republicans. Combatting misclassification can be a popular political issue (Erlich, 2020).

While worker misclassification can be addressed indirectly through Federal Labor Standards Act (FLSA) investigations, misclassification is not explicitly mentioned in federal labor laws (GAO, 2009). As a result, many states have enacted employee misclassification laws. Typically, state legislation increases the cost to employers that commit misclassification and wage theft by imposing fines or debarment. Research shows that this leads to a statistically significant decline in the practice, but only if paired with strong enforcement mechanisms (Galvin, 2016).

There are underutilized tactics that state agencies can use to deter misclassification. Many enforcement agencies rely heavily on formal complaints, which can be ineffective because vulnerable workers are hesitant to file complaints out of fear of retaliation (Erlich & Gerstein, 2019; Weil & Pyles, 2006). Pairing complaint-driven investigations with targeted, randomized investigations of employers in industries that are prone to misclassification can increase the chances of exposing fraudulent contractors. Additionally, stop-work orders can halt all work on construction sites until contractors turn over payroll records and comply with investigators. Some agencies have reported that response times drop as low as one to two days with the use of stop-work orders (Erlich & Gerstein, 2019). Another tool to help disenfranchised workers recover lost wages is to record a wage lien against contractors who are under investigation. Wage liens operate similarly to mechanic's liens by not allowing employers to escape payment of wages by dissolving their businesses (Cho, Koonse, & Mischel, 2013; Gleeson, Taub, & Noss, 2014).

Upstream liability laws hold general contractors liable for the nonpayment of wages and benefits, regardless of which subcontractor breaks the law (Ormiston et al., 2020). This form of multiemployer liability incentivizes self-policing in the industry by focusing efforts on upper-tier contractors that have authority to change practices through contractual agreements. California, Illinois, Maryland, New Jersey, New York, Nevada, and Virginia have enacted such policies targeted at primary contractors (Philips, 2021). Illinois' law applies *only* to general contractors who are not signatories to collective bargaining agreements on private projects that exceed \$20,000 and excludes single family residential projects (Chen, 2022). Wisconsin's Task Force on Payroll Fraud and Worker Misclassification recommended enacting an upstream liability law (DWD, 2021). Fully 71% of voters support holding general contractors legally responsible if their subcontractors fail to pay earned wages, unemployment insurance contributions, workers' compensation premiums, and Social Security taxes—including 67% of Republicans (NELP, 2016).

Another legislative solution is to implement or strengthen prevailing wage laws (Hinkel, 2021). From 2010 through 2019, misclassification and off-the-books employment was 2% lower for construction workers in states with prevailing wage laws. That is because certified payroll records are typically used to survey local markets and ascertain prevailing wage rates for each craft, improving transparency and enforcement on public works projects. States with lower prevailing wage contract thresholds also had fewer construction workers who were misclassified or paid off-the-books because more projects were covered, making workers less vulnerable to illegal labor practices and taxpayers less vulnerable to fraud (Hinkel, 2021).

Another mechanism to increase the efficacy of state misclassification laws is greater involvement by state Attorneys General (AGs) and District Attorneys (DAs) ([Gerstein, 2021](#)). California, Massachusetts, New York, Illinois, Michigan, Minnesota, New Jersey, Pennsylvania, Virginia, and the District of Columbia have dedicated worker protection units within their AG offices that respond to workers' rights issues. Washington State's AG has also increased its involvement in labor enforcement. These units signal to employers that labor and employment laws will be enforced. They build connections with the labor movement and expand educational initiatives about workers' rights and reporting mechanisms for those most at risk of misclassification ([Lawless, 2019](#); [Gerstein, 2020](#); [Gerstein & Wilpert, 2018](#)).

Importantly, Attorneys General can bring criminal prosecution against unscrupulous contractors that commit illegal misclassification and payroll fraud. If the threshold for wage theft was treated the same as property theft, 27% of all wage theft cases in 25 states would have been felony cases ([Hacker et al., 2023](#)). New York's Wage Theft Accountability Act, signed into law in September 2023, made wage theft a felony, allowing prosecutors to charge larceny and to aggregate stolen wage amounts ([James et al., 2023](#)). Several other states have enacted laws that create criminal liability for illegal misclassification ([Holt, 2021](#)). In 2021, Pennsylvania's Attorney General recovered more than \$20 million in stolen wages for nearly 1,300 construction workers who worked for Glenn O. Hawbaker, Inc. between 2003 and 2018, the largest prosecution for prevailing wage theft in history ([Shapiro, 2021](#)).

Additional state actions can be pursued. Increasing funding for enforcement efforts—for example, by hiring more prevailing wage compliance monitors and more unemployment insurance auditors, especially those who speak multiple languages—would make a difference. States can strengthen punitive measures by enacting larger fines, creating escalating penalties for repeat offenders, and debarring contractors from winning bids on publicly-funded construction projects. States can also reform labor laws to presume that workers are employees, with the burden of proving an independent contractor relationship placed on the employing party ([Holt, 2021](#)). These reforms generally include the “ABC test” in which workers are employees unless three criteria are met: [A] the worker is free from control and direction by the employing party, [B] the worker performs work outside of the course of the hiring party's typical business, and [C] the worker is engaged in an independently established trade or businesses aligning with the work they perform for the hiring party. After Illinois passed the Employee Classification Act with an ABC test, \$1.3 million in penalties against misclassifying employers were generated in 3 years ([Casey & Lewis, 2011](#)).

The federal government has proposed updated rules that would make it more difficult for companies to claim that their workers are independent contractors under the Fair Labor Standards Act ([WHD, 2022](#)). Among other changes, these proposed rules would restore the multifactor, “totality-of-the-circumstances” analysis to employee or independent contractor status, rescind the 2021 Independent Contractor Rule, and return to the longstanding interpretation of “economic reality” factors.

The best way to combat wage theft is to expand unionization. When workers have a voice and are protected by unions, they are more likely to file complaints. Studies have shown that union members are more likely to be aware of misclassification and be familiar with reporting avenues ([Cox, Timm, & Tzintzún, 2009](#); [Construction Industry Tax Fraud, 2021](#)). Additionally, in states with underfunded enforcement efforts, collective bargaining allows workers to organize for better treatment ([Mattera, 2018](#)). Finally, if passed by Congress, the Protecting the Right to Organize (PRO) Act would amend the National Labor Relations Act to make misclassification an unfair labor practice that can be federally investigated and would strengthen the ability of workers to collectively bargain by establishing stiffer penalties on employers for violating labor law and by invalidating anti-union state laws ([Rhinehart et al., 2021](#)).

Sources Listed by Release Year

Wage and Hour Division (WHD). (2022). “U.S. Department of Labor Announces Proposed Rule on Classifying Employees, Independent Contractors; Seeks to Return to Longstanding Interpretation.” U.S. Department of Labor.

Key Finding: “The proposed rule would provide guidance on classifying workers and seeks to combat employee misclassification. Misclassification is a serious issue that denies workers’ rights and protections under federal labor standards, promotes wage theft, allows certain employers to gain an unfair advantage over law-abiding businesses, and hurts the economy at-large.”

Chen, Lori. (2022). “Illinois Governor Signs Bills Expanding Contractors’ Liability for Unpaid Wages of Subcontractors’ Workers.” Ogletree Deakins.

Key Finding: Illinois Governor JB Pritzker signed House Bill 5412 and House Bill 4600 into law, which amend the Illinois Wage Payment and Collection Act to make certain primary contractors liable for any debt owed by a subcontractor (at any tier). HB 4600, the trailer bill, carves out two categories of contractors exempt from liability for such unpaid wages and benefits: (1) contractors who are signatories of collective bargaining agreements on projects where work is being performed and (2) primary contractors altering or repairing an existing single-family dwelling or single residential unit. Additionally, HB 4600 also limits the scope of the amendment to the WPCA, applying it only to contractors doing work in Illinois that exceeds \$20,000 on private (i.e., nongovernment) projects, other than an owner acting as a primary contractor on the owner’s primary residence.

Phillips, Zachary. (2021). “New York State Legislature Passes Construction Wage Theft Bill.” *Construction Dive*.

Key Finding: The New York State Senate and State Assembly passed legislation Wednesday that shifts liability to general contractors for wage theft cases on private construction projects. It made New York the 6th state, in addition to Washington, D.C., to adopt this type of protective wage theft for construction workers.

Shapiro, Josh. (2021). “Hawbaker Sentenced, Will Pay Workers More than \$20 Million in Stolen Wages.” Pennsylvania Attorney General.

Key Finding: Attorney General Josh Shapiro sentenced Glenn O. Hawbaker, Inc. for theft relating to violations of the Pennsylvania Prevailing Wage Act and the federal Davis-Bacon Act. The plea includes paying \$20,696,453 in stolen wages to 1,267 Pennsylvania workers. Hawbaker is one of the largest contractors to complete projects on behalf of the Commonwealth, receiving an estimated \$1.7 billion in contracts between 2003 and 2018. The restitution is for the largest prevailing wage criminal case in U.S. history. Hawbaker pleaded to four felony counts of stealing wages from its workers.

Rhinehart, Lynn; Celine McNicholas; Margaret Poydock; and Ihna Mangndayao. (2021). *Misclassification, the ABC Test, and Employee Status: The California Experience and Its Relevance to Current Policy Debates*.

Key Finding: Federal and state policymakers should adopt the ABC test in their labor and employment laws to ensure workers are not misclassified, and are covered by important workplace rights and protections.

Department of Workforce Development (DWD). (2021). *Payroll Fraud and Worker Misclassification Report: 2021*. State of Wisconsin.

Key Finding: This is a report from the Task Force on Payroll Fraud and Worker Misclassification. In 2020, Wisconsin Unemployment Insurance (UI) Division auditors conducted nearly 1,300 audits and identified 8,900 misclassified workers, generating \$2.34 million in UI taxes and interest. The task force recommends creating a new Insurance Fraud Bureau of Investigations and developing a statutory requirement of upstream liability, among other recommendations.

Gerstein, Terri. (2021). *How District Attorneys and State Attorneys General Are Fighting Workplace Abuses*. Economic Policy Institute.

Key Finding: District attorneys (DAs) and state attorneys general (AGs) have been bringing criminal prosecutions against law-breaking employers. This development is particularly important in light of limits in worker protection laws, underfunding of labor enforcement agencies, and employers’ increasing use of forced arbitration clauses.

Holt, Josh. (2021). “Virginia Joins the Trend of States Cracking Down on Worker Misclassification in the Construction Industry.” *Common Sense Contract Law*.

Key Finding: Virginia’s 2020 employee classification law assumes all workers are employees unless the employer can prove they are contractors under the IRS’s employment relationship test. The bill specifically targeted construction by barring known violators from bidding on public projects for two years.

Ormiston, Russell; Dale Belman; Julie Brockman; and Matt Hinkel. (2020). *Rebuilding Residential Construction*. In Paul Osterman (Ed.), *Creating Good Jobs: An Industry-Based Strategy*, 75-113. MIT Press.

Key Finding: An investigation of 71 drywall installers by Carpenters Local 525 in Kalamazoo, MI found 94% of contractors misclassified workers; 73% of 1,840 workers were misclassified or working off-the-books. Further, this book chapter describes the prevalence of illegal labor practices in residential construction and makes policy recommendations for incentivizing compliance with labor and employment law.

Gerstein, Terri. (2020). *Workers’ Rights Protection and Enforcement by State Attorneys General: State AG Labor Rights Activities from 2018 to 2020*. Economic Policy Institute.

Key Finding: In Washington, D. C., Massachusetts, and New York, state attorneys general have established offices to focus on labor rights. Cases brought against employers for misclassification have generated multiple millions in settlements.

Erllich, Mark and Terri Gerstein. (2019). *Confronting Misclassification and Payroll Fraud: A Survey of State Labor Standards Enforcement Agencies*. Harvard Law School.

Key Finding: Misclassification, a tactic used by employers to reduce labor costs by depriving workers of protections, creates a non-competitive environment against law-abiding employers paying market-based wages and benefits. Statutes governing state wage enforcement agencies explicitly dictate that they must rely on complaint-driven investigations either wholly or mostly. Regulators believe this to be ineffective as workers are intimidated into not reporting, do not know how to report, or are unaware that their employer is acting illegally.

Lawless, Donald. (2019). “Michigan Employers Act Before the Payroll Fraud Enforcement Unit Comes Knocking.” *The National Law Review*, 11(207).

Key Finding: State misclassification laws have caused employers to evaluate their practices for accidental or intentional misclassification and stop the practice before penalties were administered.

Gerstein, Terri and Marni von Wilpert. (2018). *State Attorneys General Can Play Key Roles in Protecting Workers’ Rights*. Economic Policy Institute.

Key Finding: State attorneys general have the authority to direct regulatory agencies and build cases against employers in violation of wage and labor laws and to launch labor education programs in industries where misclassification is prevalent.

Mattera, Philip. (2018). *Grand Theft Paycheck: The Large Corporations Shortchanging Their Workers’ Wages*. Good Jobs First.

Key Finding: Government enforcement of labor laws are subject to administrations hostile to workers and sympathetic to employers. Union representation allows more workers to recover stolen wages.

Galvin, Daniel. (2016). “Deterring Wage Theft: Alt-Labor, State Politics, and the Policy Determinants of Minimum Wage Compliance.” *Perspectives on Politics*, 14(2): 324-350.

Key Finding: Employers base their wage theft strategies on the expected probability of detection and the monetary cost of a violation being detected. State laws that increase the costs of violations that are detected have led to statistically significant declines in wage theft, if coupled with equally strong enforcement mechanisms.

National Employment Law Project (NELP). (2016). *Contracted Out: Findings from a National Voter Survey*.

Key Finding: In a national survey of 1,000 registered voters, 84% of Americans said that companies misclassifying workers as independent contractors is a serious problem and 78% said that workers are better off when they are employees. 78% favor making it harder for companies to misclassify workers as independent contractors, including 73% of Republicans.

Cho, Eunice Hyunhye; Tia Koonse; and Anthony Mischel. (2015). *Hollow Victories: The Crisis in Collecting Unpaid Wages for California’s Workers*. National Employment Law Project; University of California, Los Angeles.

Key Finding: Only 42% of unpaid wages due to wage theft were recovered after being awarded to victims by the California Department of Labor Standards Enforcement. In response to low rates of repayment of stolen wages, wage liens can be used to prevent employers from dissolving their company to avoid repayment. When a wage lien is in place, a company dissolving or declaring bankruptcy must retain funds to pay the lien before liquidating.

Gleeson, Shannon; Ruth Silver Taube; and Charlotte Noss. (2014). *Santa Clara County Wage Theft Report*. University of California, Santa Cruz; Santa Clara Law.

Key Finding: Filing wage liens is often the responsibility of local government officials. To bring successful wage theft claims, individuals and classes can engage with local government officials for support in ensuring repayment.

Ordonez, Franco and Mandy Locke. (2014). “IRS’ ‘Safe Harbor’ Loophole Frustrates Those Fighting Labor Tax Cheats.” *McClatchy D. C. Bureau*.

Key Finding: Due to the “safe harbor” provision in the Revenue Act, revenue officers charged with investigating worker misclassification and payroll fraud often find themselves unable to administer penalties or change employer practices. Some IRS examiners describe the provision as the “greatest impediment” to fighting worker misclassification.

Casey, Robert and Eva Lewis. (2011). *Independent Contractors and Employee Misclassification in the Construction Industry*. Ogletree, Deakins, Nash, Smoak & Stewart.

Key Finding: The Illinois Employee Classification Act assumes all construction workers are employees unless the employing party can prove they are independent contractors. In the first 3 years after enactment, \$1.3 million in penalties was recovered for misclassified workers. This bill bars known violators from bidding on public project for up to 4 years.

Cox, Lauren; Emily Timm; and Cristina Tzintzún. (2009). *Building Austin, Building Injustice*. Workers Defense Project; The University of Texas at Austin.

Key Finding: Texas’ so-called “right-to-work” law has severely reduced union density in construction. However, when surveyed, union construction workers were 58% more likely to know about their labor rights than non-unionized workers.

Government Accountability Office (GAO). (2009). *Employee Misclassification: Improved Coordination, Outreach, and Targeting Could Better Ensure Detection and Prevention*.

Key Finding: Misclassification of workers enables other forms of wage theft, such as minimum wage theft. These minimum wage violations are investigated under the Fair Labor Standards Act, which does not address misclassification.

Weil, David and Amanda Pyles. (2006). “Why Complain? Complaints, Compliance, and the Problem of Enforcement in the U.S. Workplace.” *Comparative Labor Law and Policy Journal*, 27(59): 59-92.

Key Finding: For every 130 minimum wage violations in the United States, only one complaint is filed with the appropriate regulatory agency. Explanations for this gap include the fear of retaliation from employers and lack of unionization.

Example Op-Eds on Misclassification and Wage Theft in Construction

Solis, Hilda. (2017). “Opinion: Wage Discrimination in Construction Industry Makes Minimum Standards a Good Idea.” *The Mercury News*.

Opinion: Wage Discrimination in Construction Industry Makes Minimum Standards a Good Idea

The Mercury News (San Francisco Bay Area) | By Hilda L. Solis | August 30, 2017

Equal pay for equal work remains elusive, even here in progressive California.

A recent study by Smart Cities Preval showed that Latinos make up two thirds of the construction workforce, yet only make about 70 cents on the dollar of white workers with the same skills. The study noted that Latino construction workers also are significantly more likely to be uninsured and to struggle with housing affordability.

Low minimum wage standards are one factor that contributes to these types of disparities.

California legislators are soon expected to consider streamlining development of more housing across our state. At its core, the proposal involves removing certain regulatory hurdles in exchange for guarantees that a small percentage of new developments will include “affordable” units.

A similar effort failed last year when no agreement was reached on wage standards for workers on streamlined projects.

According to industry research, workers’ wages and benefits are just 15 percent of the total cost of constructing housing. By comparison, profits for developers and contractors are 18 percent of costs and growing faster than the cost of labor.

And while inflation-adjusted construction wages are down 25 percent over the last 20 years, housing prices have soared as much as 54 percent in some markets. Declining wages mean more worker reliance on Medicaid, Food Stamps and other assistance programs.

And with labor standards being eroded, other problems have become more pervasive.

For example, wage theft occurs when employees are paid for fewer hours than they worked, less than legally required, or when their employer is paying in cash and cheating on payroll taxes. California’s construction industry has seen a 400 percent increase in wage theft since the 1970s—a period that has also seen a dramatic increase in the share of immigrants in our construction workforce.

A recent study by the Economic Roundtable found that one in six California construction workers is now affected by these crimes. Construction wage theft’s annual cost to California workers and taxpayers is in the billions of dollars.

By including things like prevailing wage in a housing streamlining package, California can take an important step in combatting this cycle of exploitation.

Prevailing wage requirements provide a livable, minimum pay rate for construction workers that is consistent with local market standards. By stabilizing the wage floor, the requirement closes pay gaps that disproportionately impact communities of color, decreases the likelihood of working people living in poverty, increases rates of health coverage and increases the probability of a non-white individual pursuing a career in construction.

Prevailing wage also increases participation in skilled trade apprenticeship programs. These programs not only expand a worker's lifetime earnings by as much as \$240,000, but enable construction workers to acquire skills that improve safety, productivity and efficiency on the jobsite. These skills are essential if we hope to boost housing supply in sufficient quantities to close the affordability gap.

To formulate sound policy consistent with California's values, we need to have an honest conversation about how we arrived at our present crisis. By depressing wages and productivity and turning a blind eye to the growing wage theft epidemic, industry profits have exploded. But so has the income gap within the industry, as well as the number of Californians priced out of the housing market.

Something isn't working.

In housing reform, we are being asked to de-regulate one of our state's most lucrative industries. In return, aren't taxpayers entitled to ask that this industry do right by its workers?

Hilda L. Solis is a former member of Congress and was Secretary of Labor from 2009-2013. She now serves on the Los Angeles County Board of Supervisors. She wrote this for The Mercury News.

Sproule, William. (2023). “Opinion: The Deadly Serious Consequences of Illegal Employee Misclassification.” *City & State Pennsylvania*.

Opinion: The Deadly Serious Consequences of Illegal Employee Misclassification

Low wages and employee misclassification often go hand-in-hand with unsafe job sites where safety rules are sometimes ignored.

City & State Pennsylvania | By William Sproule | May 1, 2023

There are an estimated 2.16 million construction workers in the U.S. who are [illegally paid and misclassified](#) as independent contractors every year by thousands of unscrupulous contractors, intent on defrauding federal, state and local governments out of an estimated \$8.4 billion. The Pennsylvania Joint Task Force on the Misclassification of Employees found that such misclassification resulted in an annual loss of \$91 million to Pennsylvania’s Unemployment Compensation Trust Fund.

Greed is the prime motivating factor that drives more and more contractors to underpay their workers, offer no benefits or medical coverage, and routinely use labor brokers to keep their employees off the books and avoid paying taxes, Social Security benefits and insurance coverage. This illegal practice allows those who cheat to substantially underbid their law-abiding competitors, who absorb all appropriate employee costs – including paying all required taxes, health insurance, retirement and workers’ compensation benefits.

Misclassification puts ill-gotten gains in the pockets of tax cheats, while also defrauding the government. It encourages lawlessness and an environment where workers are exploited, taken advantage of, and endangered. The UC Berkeley Labor Center found that “28% of families of construction workers in Pennsylvania are enrolled in one or more safety net programs at a cost to the state and federal government of \$428 million per year.” Compared to all Pennsylvania workers, construction workers are more than twice as likely to lack health insurance (7% compared to 16%).

Low wages and employee misclassification often go hand-in-hand with unsafe job sites where OSHA safety rules are often ignored, if nonexistent. The failure to enforce job safety requirements has had deadly consequences – and law enforcement and local prosecutors are now paying attention and taking action.

One case involved a 27-year-old Irish immigrant with an American wife and an infant son. He tragically lost his life working as a misclassified subcontractor for a Delaware County company that was [criminally charged](#) with unlawful labor practices, including multiple counts of Workplace Misclassification, Deceptive Business Practices, and Insurance and Worker’s Compensation Fraud.

Another recent case involved an immigrant from Belarus who left behind a wife and a three-month-old child after he was killed on a job where the contractor was cited by OSHA for general safety and health violations and a failure to provide fall protection.

Misclassification has severe consequences beyond the financial loss to federal, state and local government coffers. It is a symptom of an illegal business model that cuts corners, pays low wages, fails to play by the rules and is willing to risk workers’ lives. It’s time to increase enforcement and prosecution of those who willfully break the law and misclassify their workforce while ignoring job site safety requirements – all to enrich themselves.

William C. Sproule is Executive Secretary-Treasurer for the Eastern Atlantic States Regional Council of Carpenters where he represents over 43,000 carpenters from Pennsylvania, New Jersey, Delaware, Maryland, Virginia, West Virginia, and the District of Columbia.

James, Letitia; Alvin Bragg; Catalina Cruz; and Joseph Geiger. (2023). “Commentary: Wage Theft Is a Serious Crime. We’re Finally Treating It That Way.” *The Times Union*.

Commentary: Wage Theft Is a Serious Crime. We’re Finally Treating It That Way.

The Wage Theft Accountability Act is an important tool for protecting workers and holding employers accountable.

The Times Union | By Letitia James, Alvin Bragg, Catalina Cruz and Joseph Geiger | September 12, 2023

What do a deli in the Bronx, a car wash in Queens and a construction site in Manhattan have in common? These are among the thousands of businesses across the state facing complaints of wage theft, a pernicious practice in which employers refuse to pay workers what they are owed.

Every year, New York businesses cheat more than 2 million workers out of over \$3.2 billion in wages, a third of which comes from those earning minimum wage. This is money that families rely on to put food on the table, yet wage theft — even when it amounts to tens of thousands of dollars in stolen pay — has been only a misdemeanor in New York, akin to trespassing or jumping a subway turnstile. As a result, prosecutors lack the tools to stop employers who line their pockets with money their employees worked hard to earn.

If it is wrong to steal from someone’s house or a bank, it is just as wrong to steal a person’s wages and labor; for many people, labor is all they have. But as misdemeanors, these cases are subject to limited discovery and a short statute of limitations, which do not reflect the seriousness of the crime. For busy law enforcement offices with limited resources, wage theft’s status as a misdemeanor has meant this crime goes unprosecuted far too often.

It is clear we need stronger measures to hold the perpetrators of wage theft accountable. And New York took a crucial step in the right direction recently when Gov. Kathy Hochul signed the Wage Theft Accountability Act into law. Sponsored by Assemblymember Catalina Cruz and Sen. Neil Breslin, this legislation has made wage theft a felony, giving our prosecutors an important tool to hold employers accountable when these calls come in.

The bill, which went into effect immediately after the governor signed it on Wednesday, allows prosecutors to charge larceny for stolen wages and to aggregate stolen wage amounts, which will now provide much more effective deterrence and consequences for employers who cheat workers.

The Wage Theft Accountability Act recognizes wage theft for what it is: a criminal act. By signing this bill into law, Gov. Hochul has sent a clear message to unscrupulous employers that exploiting their employees will result in serious consequences. Furthermore, it gives workers the legal backing to fight against such exploitation and brings long-overdue justice to victims.

But this legislation goes beyond penalizing wrongdoing; it promotes economic fairness. Fair wages mean more consumer spending, greater job creation and stronger communities. Higher wages also lead to increased income tax revenue, providing additional resources for public services and infrastructure improvements.

This legislation is not just about punishing criminals; it’s about protecting the workers who are the backbone of our economy. It’s about justice, equity and economic prosperity.

For the people who have reached out for help to no avail, and in the name of countless others silently suffering the financial burden of wage theft, New York needed to take action once and for all. With this law, we have

seized the opportunity to protect our workers, our communities and our economy by recognizing wage theft as the outrageous crime that it is.

Letitia James is attorney general of the state of New York. Alvin Bragg is the Manhattan district attorney. Assemblymember Catalina Cruz of Queens represents the 39th Assembly District. Joseph Geiger is executive secretary-treasurer of the New York City and Vicinity District Council of Carpenters.

Weidl, Evan. (2022). “Opinion: Wage Theft Needs More Attention.” *The Daily Iowan*.

Opinion: Wage Theft Needs More Attention

The issue of wage theft needs more recognition to be properly combated.

The Daily Iowan | By Evan Weidl | December 11, 2022

If you are a worker in Iowa, there is a good chance you’re being robbed, and you may not even know it.

The most common form of theft in the U.S. is not committed via petty crime. It’s wage theft.

Every year, Iowa workers do not receive an estimated \$900 million owed to them, [according to Common Good Iowa](#). This includes overtime violations, minimum wage violations, forced work off the clock, and other violations.

Wage theft is one of the most serious and overlooked issues in the U.S. Law enforcement must do more to prevent wage theft, and our lawmakers must do more to protect workers.

Workers who are affected by wage theft are primarily low-wage workers. In the 10 most populous states, 2.4 million workers lose \$8 billion annually to minimum wage violations, [according to the Economic Policy Institute](#).

This averages out to about \$3,300 per year per worker. The Economic Policy Institute estimates that wage theft affects 17 percent of low-wage workers.

Law enforcement must be more vigilant about preventing wage theft. Workers are protected from wage theft [under the Fair Labor Standards Act](#). Even those who are not authorized to work in the U.S. are protected under this law.

The Fair Labor Standards Act was enacted to protect workers from exploitation from their employers. This includes establishing regulations [such as minimum wage and requirements for overtime pay](#).

It is one problem that workers are being robbed of millions in plain sight. It is another that so little is being done to get it back and prevent it from happening again.

In Iowa, for every \$1,000 stolen via wage theft, just \$2 are recovered by public agencies. This loses the state over \$190 million in tax revenue.

Wage theft is illegal in Iowa, and it’s time for the government to start doing more to protect workers. The government must take measures to ensure wage theft does not happen in the first place, and if it does happen, enact strong punishments on those who rob their workers.

To prevent wage theft, the state should make it easier to file wage theft claims, make stronger anti-retaliation laws, and hire more investigators to look into claims.

Furthermore, the punishments for wage theft must be firmer. Many employers who get caught stealing from their workers do not face adequate penalties, which promotes further wage theft. The courts must hand out sentences of large fines and considerable jail time to those who are convicted of stealing from their employees,

It is crucial to recognize that the government will not take these steps to protect workers willingly. In 2015, a Republican-led House shot down a bill that would have protected co-workers who testify against employers from retaliation and required employers to keep records on terms of employment, [according to *The Cedar Rapids Gazette*](#).

The only way workers will get the protections they deserve is by putting pressure on the state and forcing the government's hand. This could be achieved through actions such as strikes and walk-outs.

Action from workers would also bring attention to the issue and shift the narrative. Many people who aren't getting paid what they are owed may not even realize it, or may think it's just an unfortunate reality of being a worker.

Workers stand up and take what they are owed.

It is beyond time for Iowa and the U.S. to stand up against predatory employers who steal from their own employees, but if the government is ever going to take such actions, it will only be because mass amounts of workers joined together and demanded they get what they deserve.

Evan Weidl is an Opinions Columnist at The Daily Iowan, the independent, student-run newspaper at the University of Iowa.

Other Op-Eds Listed by Release Year

LaBarbera, Gary. (2021). “Viewpoint: Measure Will Fight Wage Theft in Construction Industry.” *Times Union*.

Key Finding: The President of the New York State Building & Construction Trades Council says that \$300 million in stolen wages were recovered for exploited workers since 2011, but fraudulent contractors still retain hundreds of millions more.

Obernauer, Charlene. (2021). “Op-Ed: Wage Theft is a Crime – It’s Time to Put an End to It.” *amNY*.

Key Finding: The Executive Director of the New York Committee for Occupational Safety and Health says that a “tell-tale sign of unsafe working conditions are whispers of wage theft violations against workers on private construction projects.”

Leberstein, Sarah. (2021). “The Next Big Step in Stopping Wage Theft in the Construction Industry.” *Gotham Gazette*.

Key Finding: An employment attorney hears daily from construction workers cheated of their wages by subcontractors, especially those on nonunion and residential sites where many immigrant workers are employed.

Castro, Manuel. (2021). “Opinion: Wage Theft is Rampant in NY’s Construction Industry. Albany Can Act Now to Curb It.” *City Limits*.

Key Finding: Addressing wage theft and giving exploited workers a more secure path to recouping unpaid wages would represent a major step towards making sure that immigrant workers are given dignity though hard and important work.

Sproule, William. (2021). “Op-Ed: Construction Industry Tax Cheats Need to Be Held Accountable.” *Metro Philadelphia*.

Key Finding: Construction industry tax cheats fail to pay their workers fair living wages and rarely provide medical coverage, while also evading federal, state, and local taxes, overtime, and workers’ compensation premiums. This gives them a tremendous competitive edge when it comes to bidding on both public and private jobs against law-abiding contractors.

White, Victor. (2019). “Nashville is Being Built on a Pyramid of Payroll Tax Fraud: Opinion.” *Tennessean*.

Key Finding: \$2.6 billion in payroll tax fraud is lost annually. 45% of construction workers in the South reported they did not have workers’ compensation. Workers who reported wage theft lost a median of \$800.

Sanchez, Cesar. (2019). “Bay Area Governments Taking Action on Wage Theft.” *East Bay Express*.

Key Finding: The City of Berkeley’s “wage transparency” ordinance withholds a certificate of occupancy from projects where workers have alleged wage violations, requires contractors provide workers with detailed pay stubs outlining wage rates and deductions, and publicly posts contact information for state enforcement agencies at each jobsite.

Bonilla, Rick. (2017). “Op-Ed: Wage Theft is Preventable.” *The Daily Journal*.

Key Finding: It is up to local cities to enact “wage transparency” ordinances to improve accountability.

Schoonmaker, Derek. (2016). “Suit Against Trump Spotlights All-Too-Common Wage Theft.” *San Francisco Chronicle*.

Key Finding: Wage theft is a crime against workers, against taxpayers, and against honest businesses. It is prevalent in low-wage industries such as construction, food services, custodial services, and landscaping.

Skinner, Nancy. (2015). “Guest Commentary: Cities Can Play a Role in Stopping Wage Theft.” *Marin Independent Journal*.

Key Finding: Wage theft cheats California taxpayers out of at least \$8.5 billion a year in uncollected taxes.

●●● **TABLES** ●●●

FIGURE 1: RESEARCH ON CONSTRUCTION WORKER MISCLASSIFICATION AND PAYROLL FRAUD, 2004-2023

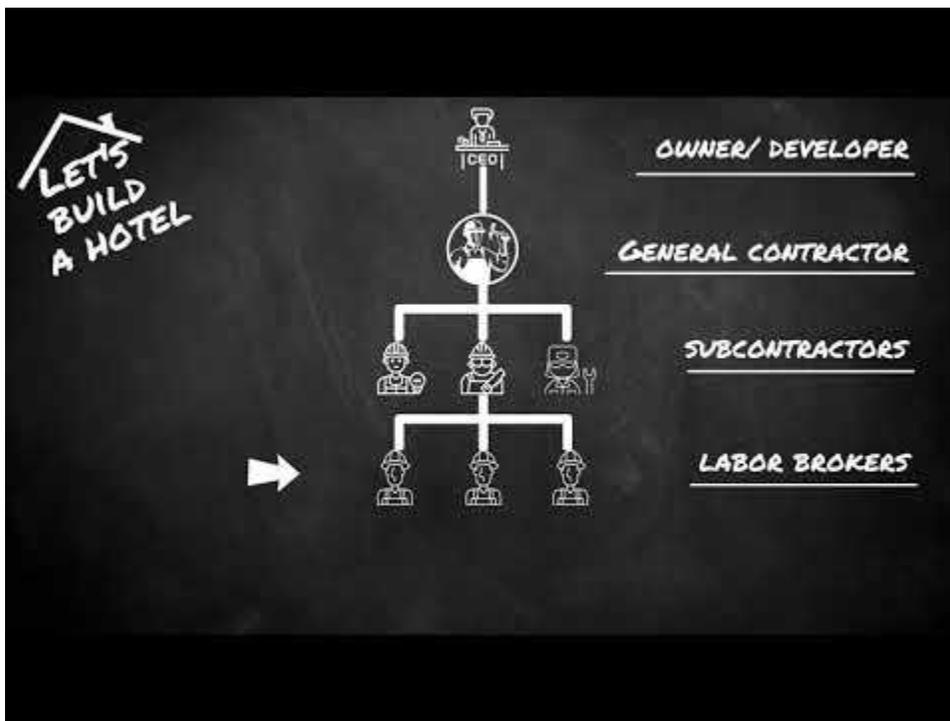
Authors	Year	Geography	Misclassification Estimates
Kelsay	2023	Missouri	21% of construction industry workers were either misclassified or working “off-the-books”
Ormiston & Juravich	2022	Rhode Island	12% of construction employers are misclassifying workers, affecting 8% of the industry workforce
Waddoups, Duncan & Ormiston	2021	Nevada	14% of blue-collar construction workers are misclassified or employed off-the-books
Juravich, Ormiston & Belman	2021	Massachusetts	More than one-in-six employers (17% to 18%) misclassify workers, affecting 9% to 16% of workers
Ormiston, Erlich & Belman	2021	New York	13% to 21% misclassified or working off-the-books
Goodell & Manzo	2021	Wisconsin, Minnesota, and Illinois	18% are misclassified or paid off the books, including 23% in MN, 20% in IL, and 10% in WI
Ormiston, Belman & Erlich	2020	United States	12%-21% estimated illegal employment rate nationally
Xu & Erlich	2019	Washington	19% estimated misclassification by employers
Waddoups, Duncan & Ormiston	2019	Nevada	11% of construction workforce misclassified or off-the-books (14% when excluding white-collar workers)
Theodore, Boggess, Cornejo & Timm	2017	Six Southern Cities	Survey of 1,435 construction workers found 32% were misclassified or working off-the-books
Cooke, Figart & Froomjian	2016	New Jersey	Estimated 144,000 workers were misclassified or unreported (16% of the labor force), with highest rates among helpers, painters, and laborers
Yen Liu, Flaming, & Burns	2014	California	16% of construction workers not reported or misclassified
Price, Timm, & Tzintzún	2013	Texas	Survey of 1,194 construction workers found 41% were misclassified or working off-the-books
Kelsay & Sturgeon	2011	Kentucky	8% of construction employees misclassified
Kelsay & Sturgeon	2010	Indiana	15% of construction employees misclassified
Canak & Adams	2010	Tennessee	Between 12,000 and 39,000 construction workers estimated to be misclassified or unreported
Belman & Block	2009	Michigan	26% of construction firms misclassified employees, misclassifying 6% of the entire industry workforce
Donahue, Lamare, & Kotler	2007	New York	15% of the construction workforce is misclassified
Office of Legislative Auditor	2007	Minnesota	15% of construction firms misclassified employees; rates were highest in roofing (38%) and drywall installation (31%)
Carre & Wilson	2005	Maine	11% of construction workers misclassified
Carre & Wilson	2004	Massachusetts	At least 5% misclassified as independent contractors

FIGURE 2: RESEARCH ON TAX FRAUD DUE TO CONSTRUCTION WORKER MISCLASSIFICATION, 2004-2023

Authors	Year	Geography	State Income Taxes	Unemployment Insurance	Workers' Compensation	Federal Income Tax	Social Security and Medicaid
Kelsay	2023	Missouri	\$9.0-\$45.2 million	\$16.7-\$27.8 million	\$41.3-\$68.9 million	\$33.2-\$104.1 million	\$70.9-118.2 million
Ormiston & Juravich	2022	Rhode Island	\$2-\$7 million	\$7-\$10 million	\$1-\$2 million		
Waddoups, Duncan & Ormiston	2021	Nevada		\$11.8 million	\$31.1 million		
Juravich, Ormiston & Belman	2021	Massachusetts	\$7-\$41 million	\$24-\$41 million	\$37-\$78 million		
Ormiston, Erlich & Belman	2021	New York	\$15-\$56 million	\$49 million	\$289 million	\$29-\$109 million	\$93-\$297 million
Goodell & Manzo	2021	Wisconsin, Minnesota, and Illinois	\$60 million (IL) \$65 million (MN) \$8 million (WI)	\$23 million (IL) \$13 million (MN) \$6 million (WI)	\$103 million (IL) \$58 million (MN) \$26 million (WI)		
Ormiston, Belman, & Erlich	2020	United States	\$160-\$552 million	\$701-\$725 million	\$1.74 billion	\$319 million - \$1.3 billion	\$1.4-\$4.3 billion
Xu & Erlich	2019	Washington		\$152 million	\$54 million	\$77 million	\$60 million
Waddoups, Duncan & Ormiston	2019	Nevada	\$7 million	\$12 million	\$31 million		
Cooke, Figart & Froomjian	2016	New Jersey	\$20 million	\$3-7 million			
Yen Liu, Flaming, & Burns	2014	California		\$63 million	\$264 million		\$301 million
Price, Timm, & Tzintzún	2013	Texas		\$55 million			
Kelsay & Sturgeon	2011	Kentucky	\$6-\$12 million	\$2 million	\$3-\$5 million	\$18-\$30 million	\$11-\$18 million
Kelsay & Sturgeon	2010	Indiana	\$11-\$18 million	\$2 million	\$4-\$8 million		
Canak & Adams	2010	Tennessee		\$14.9 million	\$91.6 million	\$73.4 million	\$42.1 million
Belman & Block	2009	Michigan		\$2.5 million			
Kelsay, Sturgeon, & Pinkham	2006	Illinois	\$9-\$15 million	\$2 million	\$23-\$35 million		
Carre & Wilson	2005	Maine	\$3 million	\$0.3 million	\$7 million		
Carre & Wilson	2004	Massachusetts	\$4-\$7 million	\$1-\$4 million	\$7 million		

●●● **VIDEOS** ●●●

What is
Misclassification
and
Payroll
Fraud?



The
Low-Road
Business
Model
Explained

Impacts on
the
Construction
Industry



Impacts
on
Workers

Impacts
on All
Contractors



Impacts
on a
Law-Abiding
Business

Impacts
on
Taxpayers



Explainer
for
Business
Owners

●●● INFOGRAPHICS ●●●

Under the law, there’s a big difference between what employees and independent contractors get

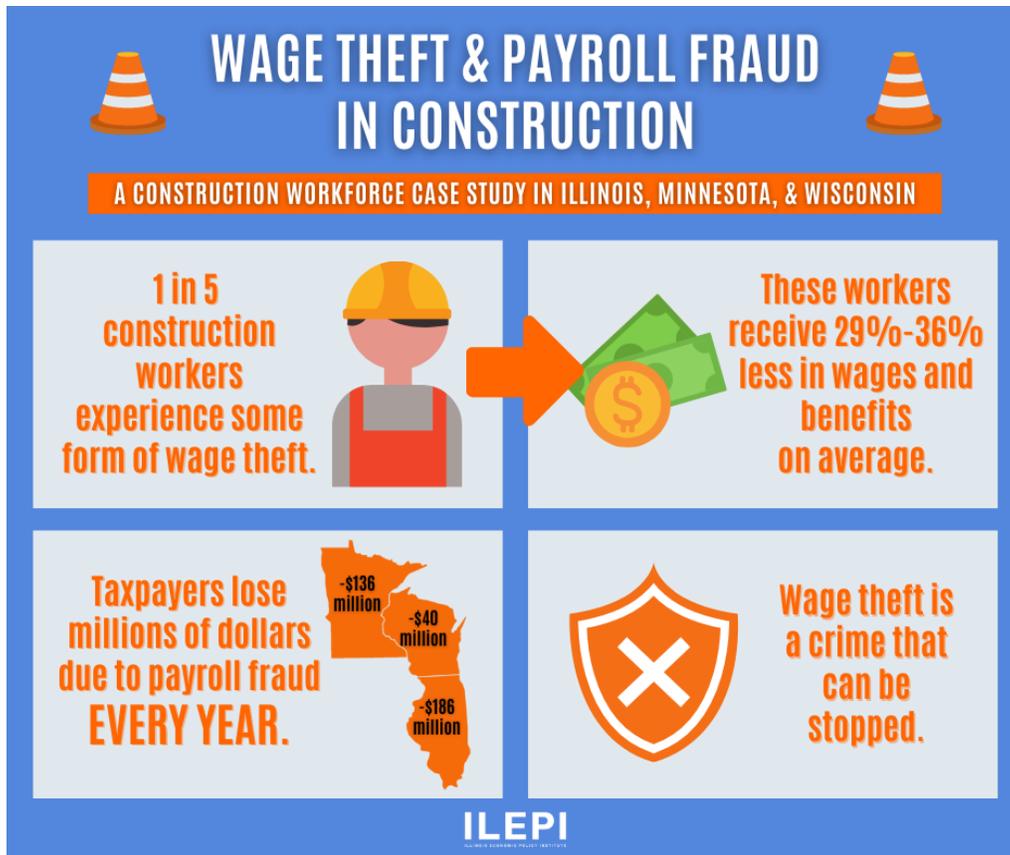
	Employees	Independent contractor
<i>Minimum wage</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Overtime pay</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Unemployment insurance</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Workers' compensation</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Paid sick days</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Paid family leave</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Right to a union</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Health and safety protections</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Discrimination and sexual harassment protections</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

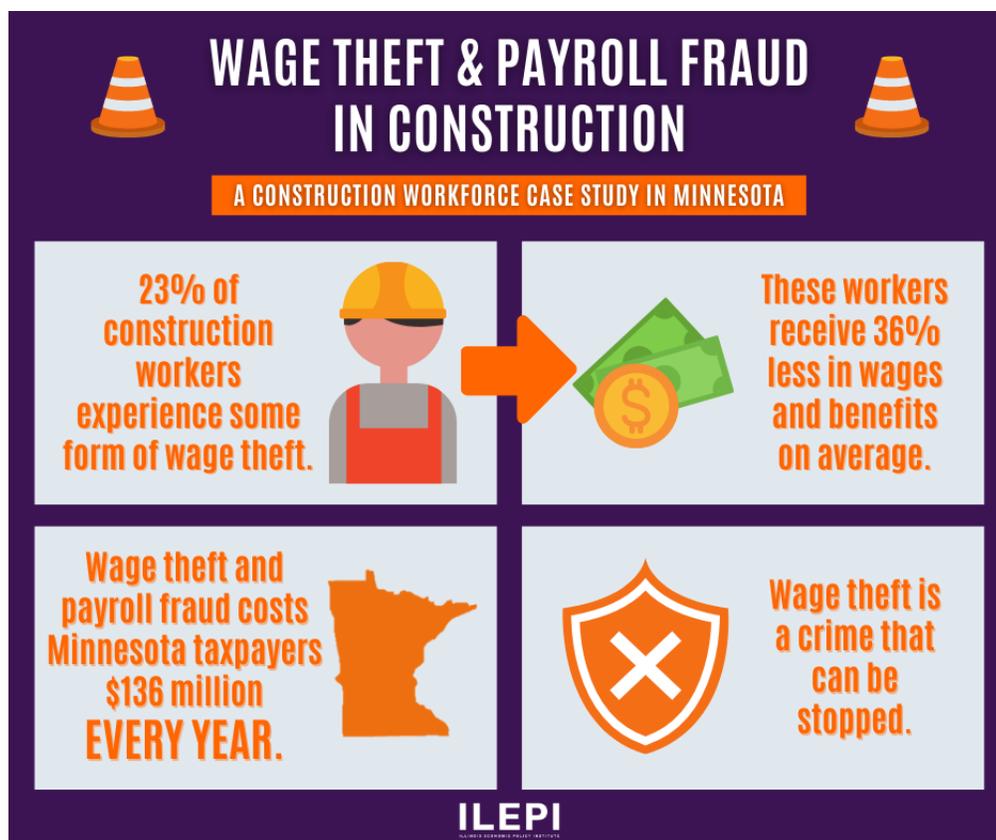
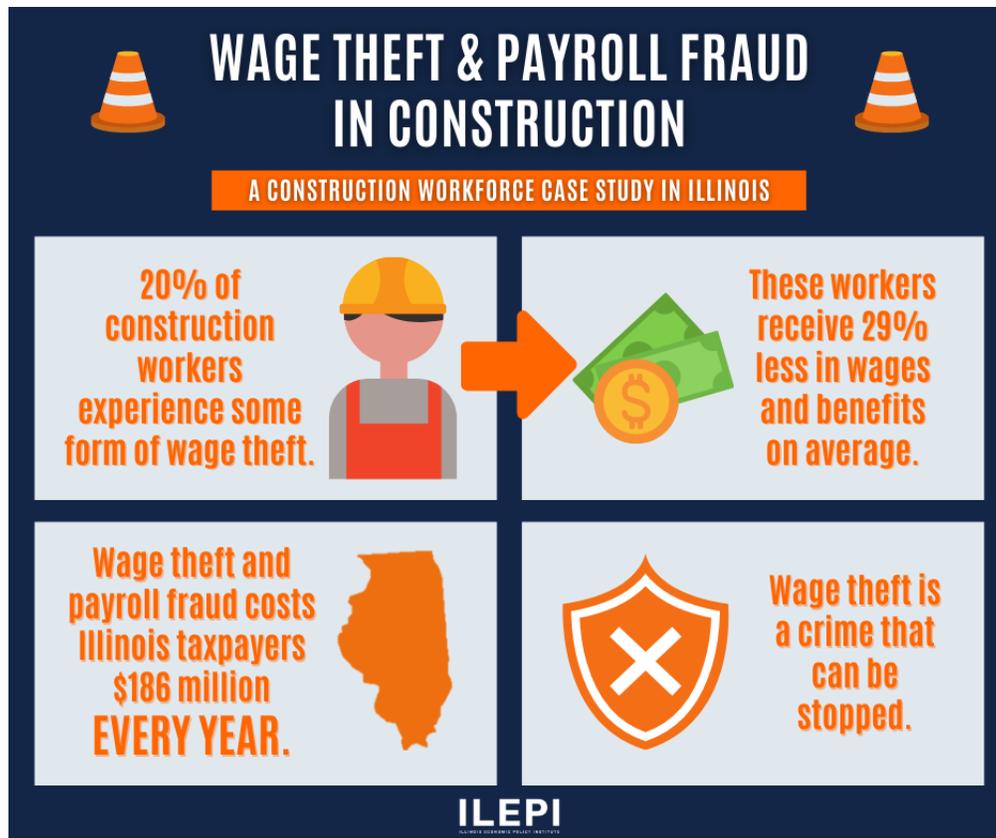
Source: EPI analysis of federal and state laws. Employees receive these protections in places where they are statutorily prescribed.

Economic Policy Institute

EMPLOYEE vs. Independent Contractor

Paid hourly or by salary	Paid upon completion of project
Uses employer's materials, tools and equipment	Provides own materials
Typically works for one employer	Works for multiple clients
Continuing relationship (at will or a defined term)	Temporary relationship (until project complete)
Employer decides manner and means of performing	Contractor decides manner and means of performing
Employer determines work performed	Contractor and client agree to project scope





WAGE THEFT & PAYROLL FRAUD IN CONSTRUCTION

A CONSTRUCTION WORKFORCE CASE STUDY IN WISCONSIN

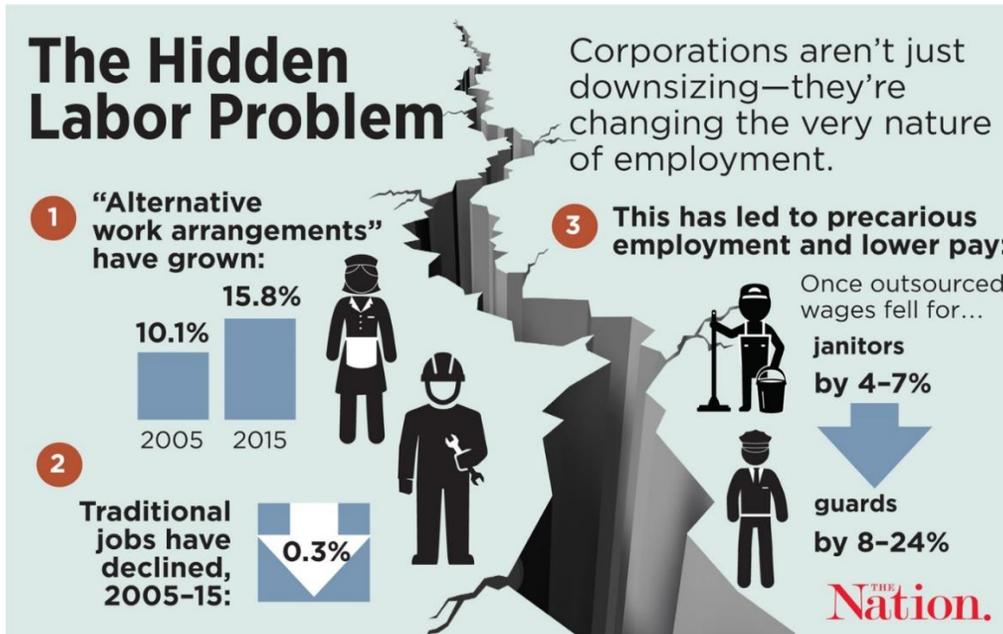
- 10% of construction workers experience some form of wage theft. 
- These workers receive 31% less in wages and benefits on average. 
- Wage theft and payroll fraud costs Wisconsin taxpayers \$40 million EVERY YEAR. 
- Wage theft is a crime that can be stopped. 

ILEPI



OVER 15,000
WI CONSTRUCTION WORKERS
— ARE ILLEGALLY —
UNDERPAID OR UNINSURED
BY THEIR EMPLOYERS

FIGHT THE FRAUD
SOURCE: MIDWEST ECONOMIC POLICY INSTITUTE



CALIFORNIA'S AB5

COVERAGE OF WORKERS WHO ARE INDEPENDENT CONTRACTORS AT THEIR MAIN JOB

ABC Test Applies

64%

Most common occupations:

- Janitors, maids, and other cleaners
- Truck drivers and taxi drivers
- Retail workers
- Grounds maintenance workers
- Childcare workers

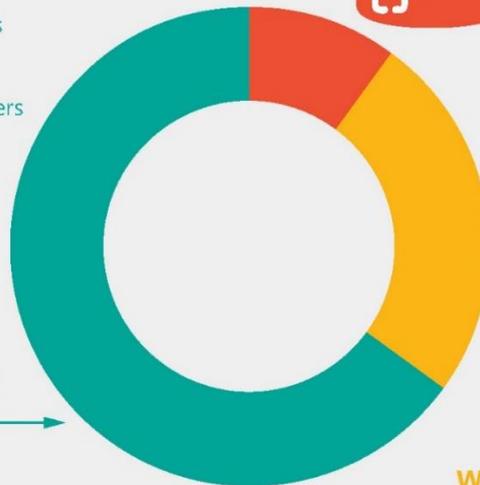


ABC Test Does Not Apply

9%

Most common occupations:

- Real estate agents
- Lawyers
- Accountants
- Doctors and dentists



ABC Test Applies Except When Strict Criteria Are Met

27%

Most common occupations:

- Construction workers
- Hairdressers, barbers, and other personal appearance workers
- Designers and other artists
- Writers, editors, and photographers
- Sales representatives

5 REASONS WHY YOUR INDEPENDENT CONTRACTORS MAY BE EMPLOYEES

INSTRUCTION

If your staff members are receiving instructions from you about when, where and how they are to provide pet sitting or dog walking services—they tend to be employees.



TRAINING

Providing training to staff members is another strong indicator that they may be an employee.

RELATIONSHIP

A continued relationship between your business and the staff member is another indicator. If you continue to use the same IC regularly—they may be considered an employee.



EXCLUSIVE

If an IC only provides services for your business—that is one more indicator that they may be an employee.

BUSINESS SUCCESS

If the success or continuation of your business is dependent on your staff members—that indicates an employer/employee relationship. Would your business remain successful if your ICs no longer provided services?



TimeToPet.com

Employee OR Independent Contractor?

EMPLOYEE



CONTRACTOR



You should classify workers as employees if they:

- ✓ Are paid by the week or month
- ✓ Get training and day-to-day supervision
- ✓ Work full time on a regular basis
- ✓ Perform most of their job tasks on the premises
- ✓ Can be fired at any time (rather than falling under contractual terms)
- ✓ Provide services that are an essential part of your normal operations

Workers are most likely independent contractors if they:

- ✓ Use their own equipment to perform the job
- ✓ Work on a temporary basis and are paid "per project"
- ✓ Service other clients, often at the same time
- ✓ Work under an individual business license
- ✓ Work at an offsite location (occasional meetings at your business location are OK)
- ✓ Have flexibility to set their own hours and schedule

brought to you by **COMPLYRIGHT**
ComplyRight.com

●●● STATE ENFORCEMENT AGENCIES ●●●

Alaska

Enforcement Unit: Alaska Department of Labor and Workforce Development, Labor Standards and Safety Division
Address: 1111 W. 8th St. Rm 302, Juneau, Alaska 99811
Mailing: PO Box 111149, Juneau, Alaska 99811-1149
Phone: (907) 465-4842
Email: statewide.wagehour@alaska.gov
Website: <https://labor.alaska.gov/lss/whhome.htm>

Arkansas

Enforcement Unit: Arkansas Division of Workforce Services
Address: #2 Capitol Mall, Little Rock, AR 72201
Mailing: P.O. Box 2981, Little Rock, AR 72203
Phone: (501) 682-2121
Email: ADWS.Info@arkansas.gov
Website: <https://www.dws.arkansas.gov/employers/worker-misclassification/>

California

Enforcement Unit: California Department of Industrial Relations
Address: 1515 Clay Street, Room 1302, Oakland, CA 94612 (Headquarters)
Phone: (833) 526-4636
Email: Available at <https://www.dir.ca.gov/dlse/DistrictOffices.htm>
Website: <https://www.dir.ca.gov/dlse/howtofilewageclaim.htm>

Enforcement Unit: Worker Rights and Fair Labor Section within the California Department of Justice's (DOJ) Division of Public Rights
Address: P.O. Box 944255, Sacramento, CA 94244-2550
Phone: (916) 210-6276
Email: Use <https://oag.ca.gov/contact>
Website: <https://oag.ca.gov/news/press-releases/attorney-general-becerra-establishes-worker-rights-and-fair-labor-section>

Colorado

Enforcement Unit: Colorado Department of Labor and Employment, Unemployment Insurance Employer Services
Address: P.O. Box 46538, Denver, CO 80201
Phone: (303) 318-9100
Website: <https://cdle.colorado.gov/misclassification>

Connecticut

Enforcement Unit: Connecticut Department of Labor, Division of Wage and Workplace Standards

Address: 200 Folly Brook Blvd., Wethersfield, CT 06109

Phone: 860-263-6000

- Minimum Wage/Overtime: (860) 263-6790
- Wage Payment: (860) 263-6790
- Public Contract Compliance (Prevailing Wage): (860) 263-6790
- Workplace Standards (Employment Regulation/Minors): (860) 263-6791

Website: <https://www.ctdol.state.ct.us/wgwkstnd/Contact.htm>

Hawaii

Enforcement Unit: Hawaii Department of Labor and Industrial Relations, Wage Standards Division

Address: 830 Punchbowl Street, Room 340, Honolulu, Hawaii 96813 (Capitol)

Phone: (808) 586-8777

Email: dliir.wages@hawaii.gov

Website: <https://labor.hawaii.gov/wsd/contact/>

Illinois

Enforcement Unit: Office of the Illinois Attorney General, Workplace Rights Bureau

Address: 100 W. Randolph Street, Chicago, IL 60601

Phone: (844) 740-5076

Website: https://illinoisattorneygeneral.gov/rights/labor_employ.html

Enforcement Unit: Office of the Illinois Attorney General, Labor Law Unit

Address: 100 W. Randolph Street, Chicago, IL 60601

Website: https://illinoisattorneygeneral.gov/rights/labor_employ.html

Indiana

Enforcement Unit: Indiana Attorney General

Address: 302 W. Washington St., 5th Floor, Indianapolis, IN 46204

Phone: (317) 232-6201

Email: wagehour@dol.in.gov

Website: <https://www.in.gov/dol/wage-and-hour/worker-misclassification/>

Iowa

Enforcement Unit: Iowa Workforce Development, Iowa Worker Misclassification Unit

Address: 1000 East Grand Avenue, Des Moines, IA 50319

Phone: (515) 725-3893

Email: misclassification@iwd.iowa.gov

Website: <https://www.iowaworkforcedevelopment.gov/misclassification-workers-iowa>

Kentucky

Enforcement Unit: Kentucky Office of Unemployment Insurance, Tax Audit Branch

Mailing: PO Box 948, Frankfort, KY 40601

Phone: (502) 564-6838

Email: desauditors@ky.gov

Website: https://kewes.ky.gov/Employertax/Misc_report.aspx

Maine

Enforcement Unit: Maine Department of Labor, Bureau of Labor Standards

Address: 45 State House Station, Augusta, Maine 04333-0045

Phone: (207) 623-7900

Email: mdol@maine.gov

Website: <https://www.maine.gov/labor/bls/>

Maryland

Enforcement Unit: Maryland Department of Labor, Division of Labor and Industry, Employment Standards Service

Address: 1100 N. Eutaw Street, Room 607, Baltimore, MD 21201

Phone: (410) 767-2357

Email: dldliemploymentstandards-labor@maryland.gov

Website: <https://www.dllr.state.md.us/labor/wages/>

Massachusetts

Enforcement Unit: Massachusetts Attorney General's Fair Labor Division

Phone: (617) 727-3465

Email: Use <https://www.mass.gov/how-to/file-a-workplace-complaint>

Website: <https://www.mass.gov/orgs/the-attorney-generals-fair-labor-division>

Michigan

Enforcement Unit: Michigan Attorney General's Office, Payroll Fraud Enforcement Unit

Address: 525 W. Ottawa St., Lansing, MI 48906

Phone: (833) 221-1099

Website: <https://www.michigan.gov/ag/initiatives/payroll-fraud>

Minnesota

Enforcement Unit: Office of Minnesota Attorney General Keith Ellison, Wage Theft Unit
Address: 445 Minnesota Street, Suite 1400, St. Paul, MN 55101
Phone: (651) 296-3353
Website: <https://www.ag.state.mn.us/Consumer/Publications/WageTheft.asp>

Enforcement Unit: Minnesota Department of Labor and Industry
Address: 443 Lafayette Road North, St. Paul, MN 55155
Phone: (651) 284-5070
Email: dli.laborstandards@state.mn.us
Website: <https://www.ag.state.mn.us/Consumer/Publications/WageTheft.asp>

Address: Minnesota Department of Employment and Economic Development
Mailing: 332 Minnesota Street, Suite E200, St. Paul, MN 55101
Phone: 332 Minnesota Street, Suite E200, St. Paul, MN 55101
Email: DEED.CustomerService@state.mn.us
Website: <https://www.ag.state.mn.us/Consumer/Publications/Misclassification.asp>

Address: Minnesota Department of Revenue, Tax Evasion or Tax Fraud Tips
Mailing: 600 N. Robert Street, St. Paul, MN 55146
Phone: (651) 297-5195
Email: tax.fraud@state.mn.us
Website: <https://www.ag.state.mn.us/Consumer/Publications/Misclassification.asp>

Missouri

Enforcement Unit: Missouri Department of Labor & Industrial Relations, Division of Labor Standards
Address: 3315 W. Truman Blvd., Rm 205, Jefferson City, MO 65102
Mailing: P.O. Box 449, Jefferson City, MO 65102-0449
Phone: (573) 751-3403
Email: laborstandards@labor.mo.gov
Website: <https://labor.mo.gov/DLS>

Montana

Enforcement Unit: Montana Department of Labor & Industry, Employment Relations Division, Compliance and Investigations Bureau
Address: 1805 Prospect Avenue, Helena, MT 59601
Mailing: PO Box 201503, Helena, MT 59620-1503
Phone: (406) 444-6543
Email: DLIERDWage@mt.gov
Website: <https://erd.dli.mt.gov/labor-standards/>

New Hampshire

Enforcement Unit: New Hampshire Department of Labor, Inspection Division
Address: Spaulding Building, 95 Pleasant St, Concord, NH 03301
Phone: (603) 271-3176
Email: InspectionDiv@dol.nh.gov or WorkersComp@dol.nh.gov
Website: <https://www.nh.gov/labor/contact-us/index.htm>

New Jersey

Enforcement Unit: New Jersey Division of Wage & Hour Compliance, Wage Collection Section
Mailing: PO Box 389, Trenton, NJ 08625-0389
Phone: (609) 292-3658
Email: WHWC@dol.nj.gov
Website: <https://www.nj.gov/labor/wageandhour/>

New Mexico

Enforcement Unit: New Mexico Department of Workforce Solutions, Labor Relations Division
Address: 401 Broadway Blvd NE, Albuquerque, NM 87102
Phone: (505) 841-4400
Website: <https://www.dws.state.nm.us/en-us/Labor-Relations/Labor-Information/Wage-and-Hour>

New York

Enforcement Unit: Labor Bureau of the New York State Attorney General's Office
Address: 28 Liberty Street, New York, NY 10005
Phone: (212) 416-8700
Email: Labor.Bureau@ag.ny.gov
Website: <https://ag.ny.gov/bureau/labor-bureau>
Tip Hotline Phone: (888) 469-7365
Tip Hotline Form: <https://www.ny.gov/content/report-suspected-workplace-violations>

Nevada

Enforcement Unit: Nevada Department of Business & Industry, Office of the Labor Commissioner
Address: 1818 College Parkway, Suite 102, Carson City, NV 89706
Phone: (775) 684-1890
Email: mail1@labor.nv.gov
Website: https://labor.nv.gov/Contact/Contact_Us/

North Carolina

Enforcement Unit: North Carolina Department of Labor, Standards and Inspections Division
Address: 4 West Edenton St., Raleigh, NC 27601
Mailing: 1101 Mail Service Center, Raleigh, NC 27699-1101
Phone: (800) 625-2267
Website: <https://www.labor.nc.gov/about-ncdol/divisions/standards-and-inspections-division#wage-and-hour-bureau>

North Dakota

Enforcement Unit: North Dakota Department of Labor and Human Rights
Address: 600 East Boulevard Avenue Bismarck, ND 58505-0340
Phone: (701) 328-2660
Email: labor@nd.gov
Website: <https://www.nd.gov/labor/wage-and-hour-topics>

Oklahoma

Enforcement Unit: Oklahoma Department of Labor, Wage and Hour Unit
Address: 3017 North Stiles Avenue, Oklahoma City, Oklahoma 73105
Phone: (405) 521-6100
Email: wageclaims@labor.ok.gov
Website: https://www.ok.gov/Labor/WORKPLACE_RIGHTS/Wage_and_Hour/index.html

Pennsylvania

Enforcement Unit: Pennsylvania Office of Attorney General
Address: 16th Floor, Strawberry Square, Harrisburg, PA 17120
Phone: (717) 787-3391
Email: wagetheft@attorneygeneral.gov
Website: <https://www.attorneygeneral.gov/taking-action/press-releases/hawbaker-sentenced-will-pay-workers-more-than-20-million-in-stolen-wages/>
Philadelphia District Attorney Unit: <https://www.inquirer.com/news/district-attorney-larry-krasner-employer-crimes-prosecution-wage-theft-20191008.html>

Rhode Island

Enforcement Unit: Rhode Island Department of Labor and Training, Task Force on the Underground Economy and Employee Misclassification
Address: 1511 Pontiac Ave, Cranston, RI 02920
Phone: (401) 574-8785
Email: philip.dambra@tax.ri.gov
Website: <https://dlt.ri.gov/misclassification/>

South Carolina

Enforcement Unit: South Carolina Department of Labor, Licensing and Regulation, Office of Wages and Child Labor
Address: 110 Centerview Dr., Columbia SC 29210
Phone: (803) 896-7756
Website: <https://llr.sc.gov/wage/paymentofwages.aspx>

Tennessee

Enforcement Unit: Tennessee Department of Labor & Workforce Development, Labor Standards Unit
Address: 220 French Landing Drive, Nashville, Tennessee 37243
Phone: (844) 224-5818
Website: <https://www.tn.gov/workforce/employers/safety---health/regulations-compliance/regulations---compliance-redirect/labor-standards-unit.html>

Vermont

Enforcement Unit: Vermont Department of Labor, Wage and Hour Program
Address: 63 Pearl Street, Burlington, VT 05401-4331
Phone: (802) 951-4083
Email: Labor.WageHour@vermont.gov
Website: <https://labor.vermont.gov/wage-and-hour/contact-wage-and-hour>

Washington

Enforcement Unit: Washington State Office of the Attorney General

Address: 1125 Washington Street SE, PO Box 40100, Olympia, WA 98504-0100

Phone: (360) 753-6200

Website: <https://www.atg.wa.gov/news/news-releases/attorney-general-s-legislation-strengthening-wage-theft-laws-and-increasing>

Enforcement Unit: Seattle City Attorney, The Civil Division

Address: 701 Fifth Avenue, Suite 2050, Seattle, WA, 98104-7095

Phone: (206) 684-8200

Website: <https://www.seattle.gov/cityattorney/about-us/civil-division>

Enforcement Unit: Washington State Department of Labor & Industries

Address: 7273 Linderson Way SW, Tumwater, WA 98501-5414

Phone: (360) 902-5800

Email: Use <https://secure.lni.wa.gov/wagecomplaint/#/>

Website: <https://www.atg.wa.gov/news/news-releases/attorney-general-s-office-labor-industries-secure-more-89k-wages-and-interest>

Wisconsin

Enforcement Unit: Wisconsin Department of Workforce Development

Address: 201 E Washington Ave; Room A100, Madison, WI 53703

Mailing: PO Box 8928, Madison, WI 53708-8928

Phone: (608) 266-6860

Email: erinfo@dwd.wisconsin.gov

Website: <https://dwd.wisconsin.gov/er/contacts.htm>

Wyoming

Enforcement Unit: Wyoming Department of Workforce Services, Labor Standards Office

Address: 5221 Yellowstone Road, Cheyenne, WY 82002 (Main Office)

Phone: (307) 777-7261

Website: <http://wyomingworkforce.org/workers/labor/>

●●● RESEARCH SORTED BY YEAR ●●●

Ormiston, Russell; Dale Belman; and Mark Erlich. (2020). *An Empirical Methodology to Estimate the Incidence and Costs of Payroll Fraud in the Construction Industry*. Allegheny College; Michigan State University; Harvard University.

Key Finding: In the average month in 2017, between 12% and 21% of construction industry workers were misclassified as independent contractors or working strictly off-the-books. Over the peak summer months, this increased to between 13% and 22%. Due to payroll fraud, construction companies illegally reduce labor costs by between \$6.2 billion and \$11.7 billion per year. State workers' compensations programs experienced a \$1.7 billion shortfall due to misclassification. State unemployment insurance plans experienced a shortfall of up to \$725 million. State income tax revenues are also \$160 million to \$552 million lower. Between \$1.4 billion and \$4.3 billion owed to Social Security and Medicare and \$319 million and \$1.3 billion in federal income taxes was never paid in 2017 due to payroll fraud. Under federal wage statutes, workers are entitled to time-and-a-half for hours worked over 40 hours per week and to premium pay for work over holidays. Employers who misclassify workers as independent contractors can avoid paying these additional wages, resulting in \$811 million to \$1 billion in unpaid overtime and premium wages.

Schmitt, John; Heidi Shierholz; Margaret Poydock; and Samantha Sanders. (2023). *The Economic Costs of Worker Misclassification*. Economic Policy Institute.

Key Finding: When employers misclassify workers as independent contractors, they deprive them of fundamental labor rights. In construction, an independent contractor loses out on as much as \$16,729 per year in income (32%) from being misclassified as an independent contractor compared with what they would have earned as an employee. Revenue for social insurance programs—Social Security, Medicare, Workers' Compensation, and federal and state unemployment insurance—decreases by as much as \$2,965 per construction worker per year due to misclassification as well (32%).

Kelsay, Michael. (2023). *Worker Misclassification and Wage Theft in the Construction Industry in Missouri*. University of Missouri-Kansas City.

Key Finding: In 2020, 21% of workers in Missouri's construction industry were either misclassified as independent contractors or working "off-the-books" in cash-only arrangements. Misclassification and wage theft in the construction industry cost construction workers between \$334 million and \$465 million in lost wages and fringe benefits annually. Payroll fraud also costs Missouri \$69 million in lost workers' compensation contributions, \$28 million in lost unemployment insurance contributions, and \$45 million in forgone state income tax revenue.

Hacker, Chris; Ash-Har Quraishi; Amy Corral; Ryan Beard. (2023). "Wage Theft Often Goes Unpunished Despite State Systems Meant to Combat It." *CBS News*.

Key Finding: Even when wage theft is reported, employers often manage to avoid paying back the wages they owe. CBS News submitted public records requests to nearly every state labor department in the country and built a database of more than 650,000 total complaints. Of those cases, state agencies ruled in favor of claimants only about half of the time. Even when workers won their claims, more than a third of those successful cases—totaling nearly \$1 billion—showed no money was ever recovered. Finally, if wage theft was treated the same as felony theft (or the threshold at which a misdemeanor street crime becomes a felony), 177,000 wage theft cases in 25 states could have been felony cases. This includes over 25% of cases in New Jersey, Illinois, Massachusetts, New Hampshire, Kentucky, Indiana, Maryland, New York, Maine, Montana, Minnesota, Kansas, Utah, and Michigan.

Siegelbaum, Max; Agnel Philip; and Lam Thuy Vo. (2023). "127,000 New York Workers Have Been Victims of Wage Theft." *ProPublica*.

Key Finding: Analyzing federal and state databases of labor violations obtained from the U.S. Department of Labor and the New York State Department of Labor, investigative reporters found that more than \$203 million in wages had been stolen from 127,000 workers in New York from 2017 through 2021. About 1,600 construction companies stole wages from more than 7,700 New York workers from 2017 through 2021. The article notes that "the amount of wage theft is almost certainly a significant undercount."

Sproule, William. (2023). “Opinion: The Deadly Serious Consequences of Illegal Employee Misclassification.” *City & State Pennsylvania*.

Key Finding: The Pennsylvania Joint Task Force on the Misclassification of Employees found that such misclassification resulted in an annual loss of \$91 million to Pennsylvania’s Unemployment Compensation Trust Fund. Misclassification puts ill-gotten gains in the pockets of tax cheats, while also defrauding the government. It encourages lawlessness and an environment where workers are exploited, taken advantage of, and endangered. The UC Berkeley Labor Center found that “28% of families of construction workers in Pennsylvania are enrolled in one or more safety net programs at a cost to the state and federal government of \$428 million per year.”

James, Letitia; Alvin Bragg; Catalina Cruz; and Joseph Geiger. (2023). “Commentary: Wage Theft Is a Serious Crime. We’re Finally Treating It That Way.” *The Times Union*.

Key Finding: The Wage Theft Accountability Act has made wage theft a felony, giving prosecutors an important tool to hold employers accountable. The law, which went into effect immediately after signing, allows prosecutors to charge larceny for stolen wages and to aggregate stolen wage amounts, which will now provide much more effective deterrence and consequences for employers who cheat workers. The Wage Theft Accountability Act recognizes wage theft for what it is: a criminal act.

Isser, Mindy. (2023). “Employers Steal Up to \$50 Billion From Workers Every Year. It’s Time to Reclaim It.” *In These Times*.

Key Finding: Wage theft is particularly common in nonunion construction, which often operates “underground,” with workers either being misclassified or being paid in cash. The industry operates under very little oversight, with regulators not having the resources to enforce laws or not being able to pinpoint responsible parties due to multiple layers of subcontracting. And because more than 1-in-10 construction workers are undocumented immigrants, employers are often more likely to engage in abuse, as workers may not know their rights or fear retribution if they assert them.

Ormiston, Russell and Tom Juravich. (2022). *Worker Misclassification and Wage Theft in Rhode Island*. Allegheny College; University of Massachusetts-Amherst; Institute for Construction Employment Research (ICERES).

Key Finding: Rhode Island employers misclassified 4% of the state’s workforce in 2019, representing more than 19,000 workers. In construction, 12% of construction employers are misclassifying workers, affecting 8% of the industry workforce. Payroll fraud costs taxpayers between \$25 million and \$54 million annually.

Wage and Hour Division (WHD). (2022). “U.S. Department of Labor Announces Proposed Rule on Classifying Employees, Independent Contractors; Seeks to Return to Longstanding Interpretation.” U.S. Department of Labor.

Key Finding: “The proposed rule would provide guidance on classifying workers and seeks to combat employee misclassification. Misclassification is a serious issue that denies workers’ rights and protections under federal labor standards, promotes wage theft, allows certain employers to gain an unfair advantage over law-abiding businesses, and hurts the economy at-large.”

Chen, Lori. (2022). “Illinois Governor Signs Bills Expanding Contractors’ Liability for Unpaid Wages of Subcontractors’ Workers.” Ogletree Deakins.

Key Finding: Illinois Governor JB Pritzker signed House Bill 5412 and House Bill 4600 into law, which amend the Illinois Wage Payment and Collection Act to make certain primary contractors liable for any debt owed by a subcontractor (at any tier). HB 4600, the trailer bill, carves out two categories of contractors exempt from liability for such unpaid wages and benefits: (1) contractors who are signatories of collective bargaining agreements on projects where work is being performed and (2) primary contractors altering or repairing an existing single-family dwelling or single residential unit. Additionally, HB 4600 also limits the scope of the amendment to the WPCA, applying it only to contractors doing work in Illinois that exceeds \$20,000 on private (i.e., nongovernment) projects, other than an owner acting as a primary contractor on the owner’s primary residence.

Finn, Sean. (2022). *A Heist in Plain Sight*. Common Good Iowa.

Key Finding: Each year, employers steal wages from 1-in-7 Iowa workers, amounting to \$900 million in stolen wages (\$300 each week for victims) and \$190 million in lost tax revenue. Wage theft is most common in construction, food service, hospitality, nursing, and childcare jobs. When low-road employers steal wages to cut costs, responsible businesses lose out.

Weidl, Evan. (2022). “Opinion: Wage Theft Needs More Attention.” *The Daily Iowan*.

Key Finding: In Iowa, for every \$1,000 stolen via wage theft, just \$2 are recovered by public agencies. This loses the state over \$190 million in tax revenue.

Waddoups, Jeffrey; Kevin Duncan; and Russell Ormiston. (2021). *Payroll Fraud in Nevada’s Construction Industry: Extent and Fiscal Impact*. University of Nevada, Las Vegas; Colorado State University-Pueblo; Allegheny College; Institute for Construction Employment Research (ICERES).

Key Finding: There were about 12,700 workers who were either misclassified as independent contractors or employed off-the-books in Nevada’s construction industry in 2018, representing 11% of the industry and 14% of blue-collar construction workforce. This resulted in \$31 million in unpaid workers’ comp premiums, a \$12 million shortfall in the state UI fund, and \$7 million in uncollected tax revenue via the Modified Business Tax.

Mangundayao, Ihna; Celine McNicholas; Margaret Poydock; and Ali Sait. (2021). *More Than \$3 Billion in Stolen Wages Recovered for Workers Between 2017 and 2020*. Economic Policy Institute.

Key Finding: Between 2017 and 2020, \$3.24 billion in stolen wages was recovered on behalf of workers by the U.S. Department of Labor, state departments of labor and attorneys general, and through class and collective action litigation—but this represents just a small portion of wages stolen from workers across the country. Potential policy options include increasing funding for the Department of Labor’s Wage and Hour Division, engaging in proactive and strategic enforcement in industries where violations are especially rampant, enhancing civil monetary penalties for violations, protecting worker rights to unionize, and boosting funding for state and local enforcement.

Juravich, Tom; Russell Ormiston; and Dale Belman. (2021). *The Social and Economic Costs of Illegal Misclassification, Wage Theft, and Tax Fraud in Residential Construction in Massachusetts*. University of Massachusetts-Amherst; Allegheny College; Michigan State University; Institute for Construction Employment Research (ICERES).

Key Finding: Audits of employer payrolls from 2017 to 2019 indicate that more than one-in-six Massachusetts construction employers (17% to 18%) misclassify their workers as independent contractors. Utilizing a well-established empirical approach of indirectly estimating the full extent of misclassification, there were between 22,000 and 37,000 workers affected by wage and tax fraud in 2019, accounting for 9% to 16% of the industry’s workforce. This was especially prevalent among building finishing contractors (e.g., drywall, finish carpentry, painting). This led to \$41 million in lost unemployment insurance contributions \$41 million in lost income taxes, and \$78 million in lost workers’ comp premiums in 2019.

Ormiston, Russell; Mark Erlich; and Dale Belman. (2021). *Payroll Fraud in New York’s Construction Industry: Estimating its Prevalence, Severity and Economic Costs*. Allegheny College; Harvard University; Michigan State University; Institute for Construction Employment Research (ICERES).

Key Finding: There were between 76,000 and 126,000 workers who were either misclassified as independent contractors or employed off-the-books in New York’s construction industry in 2017, representing 13% to 21% of all construction workers. This resulted in \$289 million in unpaid workers’ comp premiums and a \$49 million shortfall in the state UI fund.

Morgenson, Gretchen and Lisa Cavazuti. (2021). “The Hidden Scourge of ‘Wage Theft’: When Higher Profits Come Out of Workers’ Pockets.” *NBC News*.

Key Finding: In this piece of investigative journalism, reporters highlight a wage theft case from Cedar Rapids, Iowa in which out-of-state workers were brought in following a natural disaster to rebuild. One company—BluSky Restoration Contractors from Colorado—has a history of wage theft and once again stole from workers on the Iowa project.

Phillips, Zachary. (2021). “New York State Legislature Passes Construction Wage Theft Bill.” *Construction Dive*.

Key Finding: The New York State Senate and State Assembly passed legislation Wednesday that shifts liability to general contractors for wage theft cases on private construction projects. It made New York the 6th state, in addition to Washington, D.C., to adopt this type of protective wage theft for construction workers.

Shapiro, Josh. (2021). “Hawbaker Sentenced, Will Pay Workers More than \$20 Million in Stolen Wages.” Pennsylvania Attorney General.

Key Finding: Attorney General Josh Shapiro sentenced Glenn O. Hawbaker, Inc. for theft relating to violations of the Pennsylvania Prevailing Wage Act and the federal Davis-Bacon Act. The plea includes paying \$20,696,453 in stolen wages to 1,267 Pennsylvania workers. Hawbaker is one of the largest contractors to complete projects on behalf of the Commonwealth, receiving an estimated \$1.7 billion in contracts between 2003 and 2018. The restitution is for the largest prevailing wage criminal case in U.S. history. Hawbaker pleaded to four felony counts of stealing wages from its workers.

Department of Workforce Development (DWD). (2021). *Payroll Fraud and Worker Misclassification Report: 2021*. State of Wisconsin.

Key Finding: This is a report from the Task Force on Payroll Fraud and Worker Misclassification. In 2020, Wisconsin Unemployment Insurance (UI) Division auditors conducted nearly 1,300 audits and identified 8,900 misclassified workers, generating \$2.34 million in UI taxes and interest. The task force recommends creating a new Insurance Fraud Bureau of Investigations and developing a statutory requirement of upstream liability, among other recommendations.

Jacobs, Ken and Kuochih Huang. (2021). *The Public Cost of Low-Wage Jobs in California’s Construction Industry*. University of California, Berkeley.

Key Finding: 48% of families in which at least one adult who works in construction are enrolled in public safety net programs such as Medicaid, CHIP, EITC, and SNAP at an estimated annual cost of \$3 billion.

Goodell, Nathaniel and Frank Manzo IV. (2021). *The Costs of Wage Theft and Payroll Fraud in the Construction Industries of Wisconsin, Minnesota, and Illinois: Impacts on Workers and Taxpayers*. Midwest Economic Policy Institute.

Key Finding: When compared to employees doing similar work, independent contractors earn about 30% in total compensation in the construction industries of Wisconsin, Minnesota, and Illinois. This includes 13%-22% less in annual wages and 62%-66% in total benefits. Wage theft and payroll fraud cost a total of \$362 million in lost state income taxes, unemployment insurance contributions, and workers’ compensation premiums in these three states every year.

Hinkel, Matthew. (2021). *The Effect of Prevailing Wage Laws on Informal Construction Employment*. Alma College.

Key Finding: From 2010 through 2019, worker misclassification and off-the-books employment was 2% lower for construction workers in states with prevailing wage laws. Lower prevailing wage contract coverage thresholds were also linked with significant decreases in misclassification and off-the-books employment because more state and local projects are covered, leaving fewer workers vulnerable to exploitative practices and governments less vulnerable to payroll tax fraud. By improving transparency, accountability, and enforcement on public works projects, prevailing wage laws protect workers from illegal labor practices.

Rhinehart, Lynn; Celine McNicholas; Margaret Poydock; and Ihna Mangndayao. (2021). *Misclassification, the ABC Test, and Employee Status: The California Experience and Its Relevance to Current Policy Debates*.

Key Finding: Federal and state policymakers should adopt the ABC test in their labor and employment laws to ensure workers are not misclassified, and are covered by important workplace rights and protections.

Gerstein, Terri. (2021). *How District Attorneys and State Attorneys General Are Fighting Workplace Abuses*. Economic Policy Institute.

Key Finding: District attorneys (DAs) and state attorneys general (AGs) have been bringing criminal prosecutions against law-breaking employers. This development is particularly important in light of limits in worker protection laws, underfunding of labor enforcement agencies, and employers’ increasing use of forced arbitration clauses.

Holt, Josh. (2021). “Virginia Joins the Trend of States Cracking Down on Worker Misclassification in the Construction Industry.” *Common Sense Contract Law*.

Key Finding: Virginia’s 2020 employee classification law assumes all workers are employees unless the employer can prove they are contractors under the IRS’s employment relationship test. The bill specifically targeted construction by barring known violators from bidding on public projects for two years and allows the Department of Taxation to impose penalties between \$1,000-\$5,000 per offense.

LaBarbera, Gary. (2021). “Viewpoint: Measure Will Fight Wage Theft in Construction Industry.” *Times Union*.

Key Finding: The President of the New York State Building & Construction Trades Council says that \$300 million in stolen wages were recovered for exploited workers since 2011, but fraudulent contractors still retain hundreds of millions more.

Obernauer, Charlene. (2021). “Op-Ed: Wage Theft is a Crime – It’s Time to Put an End to It.” *amNY*.

Key Finding: The Executive Director of the New York Committee for Occupational Safety and Health says that a “tell-tale sign of unsafe working conditions are whispers of wage theft violations against workers on private construction projects.”

Leberstein, Sarah. (2021). “The Next Big Step in Stopping Wage Theft in the Construction Industry.” *Gotham Gazette*.

Key Finding: An employment attorney hears daily from construction workers cheated out of their wages by subcontractors, especially those on nonunion and residential sites where many immigrant workers are employed.

Castro, Manuel. (2021). “Opinion: Wage Theft is Rampant in NY’s Construction Industry. Albany Can Act Now to Curb It.” *City Limits*.

Key Finding: Addressing wage theft and giving exploited workers a more secure path to recouping unpaid wages would represent a major step towards making sure that immigrant workers are given dignity though hard and important work.

Sproule, William. (2021). “Op-Ed: Construction Industry Tax Cheats Need to Be Held Accountable.” *Metro Philadelphia*.

Key Finding: Construction industry tax cheats fail to pay their workers fair living wages and rarely provide medical coverage, while also evading federal, state, and local taxes, overtime, and workers’ compensation premiums. This gives them a tremendous competitive edge when it comes to bidding on both public and private jobs against law-abiding contractors.

Construction Industry Tax Fraud. (2021). *Construction Industry Insurance Fraud*. StopTaxFraud.net.

Key Finding: This one-page fact sheet describes workers’ compensation insurance premium fraud, notes that losses are estimated at \$2 billion nationwide, and tells people how they can help.

Construction Industry Tax Fraud. (2020). *Construction Industry Poor Safety Standards*. StopTaxFraud.net.

Key Finding: This one-page fact sheet notes that contractors who skirt workers’ comp, wage, and tax laws often cut corners with safety and that tax fraud robs state and federal governments out of \$8.4 billion per year.

Construction Industry Tax Fraud. (2020). *Construction Industry Wage Theft*. StopTaxFraud.net.

Key Finding: This one-page fact sheet describes wage theft, notes that construction workers have \$946 million a year stolen from them, and tells people how they can help.

Ormiston, Russell; Dale Belman; Julie Brockman; and Matt Hinkel. (2020). *Rebuilding Residential Construction*. In Paul Osterman (Ed.), *Creating Good Jobs: An Industry-Based Strategy*, 75-113. MIT Press.

Key Finding: An investigation of 71 drywall installers by Carpenters Local 525 in Kalamazoo, MI found 94% of contractors misclassified workers; 73% of 1,840 workers were misclassified or working off-the-books. This book chapter describes the prevalence of illegal labor practices in residential construction and makes policy recommendations for incentivizing compliance with labor and employment law.

Erlich, Mark. (2020). “Misclassification in Construction: The Original Gig Economy.” *Industrial and Labor Relations Review*, 1-29.

Key Finding: The misclassification of workers as independent contractors has predated the app-based gig economy, particularly in construction where a cash-based underground system of compensation has lowered standards and been among the major causes of the decline of union density.

Moe, Lina; James Parrott; and Jason Rochford. (2020). *The Magnitude of Low-Paid Gig and Independent Contract Work in New York State*. The New School.

Key Finding: 17.5% of low-wage independent contractors in New York worked in construction. The Immigration Reform and Control Act requires employers to verify each employee’s eligibility to work in the United States to ensure that they are accounted for in payroll taxes and insurance coverage. Independent contractors, however, do not need their eligibility verified, allowing employers to hire undocumented workers and deprive them of benefits and insurance coverage.

Gerstein, Terri. (2020). *Workers’ Rights Protection and Enforcement by State Attorneys General: State AG Labor Rights Activities from 2018 to 2020*. Economic Policy Institute.

Key Finding: In Washington, D. C., Massachusetts, and New York, state attorneys general have established offices to focus on labor rights. Cases brought against employers for misclassification have generated multiple millions in settlements. In total, 8 states plus D.C. had units within AGs offices dedicated to workers’ rights at the time of this study.

National Employment Law Project (NELP). (2020). *Independent Contractor Misclassification Imposes Huge Costs on Workers and Federal and State Treasuries*.

Key Finding: State-level studies have shown an increase in employee misclassification but are likely underestimating its true scope. Construction is one of the most affected industries, with misclassification being 7 percentage points higher in construction than other industries in certain states. Includes a table of estimated losses to tax revenue.

Erlich, Mark and Terri Gerstein. (2019). *Confronting Misclassification and Payroll Fraud: A Survey of State Labor Standards Enforcement Agencies*. Harvard Law School.

Key Finding: State agencies reported they are constrained from abandoning complaint-based enforcement in favor of proactive enforcement due to statutory mandates and historical tradition. Additionally, limited resources prevent state agencies from being able to take proactive action except for in industries where misclassification is a known problem. Audits have been becoming more targeted rather than random for agencies administering unemployment insurance. Agencies have started using stop-work orders in cases where violations are found. When stop-work orders are issued, corrective action is taken, and the reported turnaround is roughly a day and a half. In response to misclassification enforcement, some companies pay employees in cash. Agencies are relying more and more on community partnerships with unions, worker centers, and immigrant rights groups to investigate employers.

Waddoups, Jeff; Kevin Duncan; and Russell Ormiston. (2019). *Payroll Fraud in Nevada’s Construction Industry: Extent and Fiscal Impact*. University of Nevada, Las Vegas; Colorado State University-Pueblo; Allegheny College.

Key Finding: Across Nevada, 11% of the state’s construction workforce was either misclassified or working off-the-books in 2018 (and 14% when excluding white-collar workers). These illegal labor practices likely reduced labor costs of offending contractors by over \$90 million; these costs are borne directly by workers and taxpayers.

Xu, Lisa and Mark Erlich. (2019). *The Economic Consequences of Misclassification in the State of Washington*. Harvard University.

Key Finding: This analysis of wage theft in Washington in 2017 found a rate of worker misclassification of 19% and estimated a \$48 million cost to the state government and \$85 million cost to the federal government annually.

Thomason, Sarah; Ken Jacobs; and Sharon Jan. (2019). *Estimating the Coverage of California’s New AB 5 Law*. University of California, Berkeley.

Key Finding: Estimates that 91% of independent contractors in California would have been classified as employees under the ABC test in California’s Assembly Bill No. 5.

Belman, Dale; Aaron Sojourner. (2019). “Economic Analysis: Economic Analysis of Incentives to Fraudulently Misclassify Employees in District of Columbia Construction.” In *Illegal Worker Misclassification: Payroll Fraud in the District’s Construction Industry*. Attorney General for the District of Columbia.

Key Finding: Worker misclassification can reduce a contractor’s labor expenses by 17% in the Washington, D.C. area. Accompanied with other forms of wage theft, a contractor can easily reduce their labor costs by 27% illegally.

Sinroja, Ratna; Sarah Thomason; and Ken Jacobs. (2019). *Misclassification in California: A Snapshot of the Janitorial Services, Construction, and Trucking Industries*. University of California, Berkeley.

Key Finding: Independent contractors in construction earn 67% of the wages of properly classified workers. Roughly ¼ of construction workers in California are classified as independent contractors. 40% of workers live in low-wage households.

Lawless, Donald. (2019). “Michigan Employers Act Before the Payroll Fraud Enforcement Unit Comes Knocking.” *The National Law Review*, 11(207).

Key Finding: State misclassification laws have caused employers to evaluate their practices for accidental or intentional misclassification and stop the practice before penalties were administered.

Slowey, Kim. (2019). “Contractor Faces 20 Years in Prison for Forced Labor.” *Construction Dive*.

Key Finding: An owner of several construction companies was convicted on charges of forced labor. The contractor recruited undocumented workers from Mexico and then refused to pay them. If they complained, he threatened them—and their families—with violence or with deportation.

White, Victor. (2019). “Nashville is Being Built on a Pyramid of Payroll Tax Fraud: Opinion.” *Tennessean*.

Key Finding: \$2.6 billion in payroll tax fraud is lost annually. 45% of construction workers in the South reported they did not have workers’ compensation. Workers who reported wage theft lost a median of \$800.

Sanchez, Cesar. (2019). “Bay Area Governments Taking Action on Wage Theft.” *East Bay Express*.

Key Finding: The City of Berkeley’s “wage transparency” ordinance withholds a certificate of occupancy from projects where workers have alleged wage violations, requires contractors provide workers with detailed pay stubs outlining wage rates and deductions, and publicly posts contact information for state enforcement agencies at each jobsite.

Hallett, Nicole. (2018). “The Problem of Wage Theft.” *Yale Law & Policy Review*, 37(1): 93.

Key Finding: A Memorandum of Understanding was in place between the Department of Labor and the Immigration and Customs Enforcement agency that prevented undocumented workers from being deported if their immigration status was uncovered as a result of investigations into labor violations. When these memoranda expire, they may face deportation, which disincentivizes immigrants from reporting labor violations.

Gerstein, Terri and Marni von Wilpert. (2018). *State Attorneys General Can Play Key Roles in Protecting Workers’ Rights*. Economic Policy Institute.

Key Finding: State attorneys general have the authority to direct regulatory agencies and build cases against employers in violation of wage and labor laws and to launch labor education programs in industries where misclassification is prevalent.

Bureau of Labor Statistics (BLS). (2018). *Contingent and Alternative Employment Arrangement News Release*. U.S. Department of Labor.

Key Finding: In 2017, 19% of independent contractors worked in the construction industry. See Table 8.

Mattera, Philip. (2018). *Grand Theft Paycheck: The Large Corporations Shortchanging Their Workers’ Wages*. Good Jobs First.

Key Finding: Across 4,220 wage theft claims against large employers in 2017, \$9 billion in penalties was generated. Women and people of color were disproportionately observed to be victims of wage theft. Misclassification was the second most common offense cited. Government enforcement of labor laws are subject to administrations hostile to workers and sympathetic to employers. Union representation allows more workers to recover stolen wages.

Greenstein, Robert. (2018). Health Coverage Progress Stalls – Even as Economy Reduces Poverty, Boosts Income. Center on Budget and Policy Priorities.

Key Finding: Workers who have been misclassified are less likely to have private health insurance coverage—due to the drop in employer-sponsored health insurance coverage—and are more likely to rely on Medicaid.

Theodore, Nik, Bethany Boggess, Jackie Cornejo and Emily Timm. (2017). *Build a Better South: Construction Working Conditions in the Southern U.S.* University of Illinois at Chicago; Workers Defense Project; Partnership for Working Families.

Key Finding: A survey of 1,435 construction workers in six Southern cities discovered 32% were misclassified as independent contractors or working off-the-books, 11% experienced wage theft in their career, and 43% said their employer had no workers' compensation policy.

Cooper, David and Teresa Kroeger. (2017). *Employers Steal Billions from Workers' Paychecks Each Year: Survey Data Show Millions of Workers Are Paid Less than the Minimum Wage, At Significant Cost to Taxpayers and State Economies.* Economic Policy Institute.

Key Finding: Nationwide, wage theft costs up to \$15 billion. Misclassification is one tactic that enables wage theft. Due to fear of deportation, immigrant workers are more likely to endure harmful and exploitative working conditions without reporting them. They are also less aware of appropriate reporting avenues. Victims are underpaid an average of 25% of their earnings. Women, young workers, and immigrants report minimum wage violations at a higher rate.

Alexander, Charlotte. (2017). "Misclassification and Antidiscrimination: An Empirical Analysis." *Minnesota Law Review*, 101. 907-962.

Key Finding: According to Census and Social Security Administration data, the industries where misclassification is most prevalent include real estate, construction, truck drivers, and barbers and cosmetologists. Industries where misclassification is most prevalent also disproportionately employ women and people of color, increasing the risk that marginalized populations experience misclassification that can result in discrimination from a lack of Title VII protections. Most court cases that argue misclassification are brought by individuals not in the highly-misclassified industries, suggesting misclassified workers often do not engage in litigation. In the years 2005-2014, misclassification was brought as an argument in Title VII discrimination cases predominantly by physicians, surgeons, and insurance salespeople.

McNicholas, Celine; Zane Mokhiber; and Adam Chalkof. (2017). *Two Billion Dollars in Stolen Wages Were Recovered for Workers in 2015 and 2016 – and That's Just a Drop in the Bucket.* Economic Policy Institute.

Key Finding: In 2015 and 2016, \$2 billion in stolen wages were repaid to victims of wage theft through litigation, state agency action, and class-action lawsuits. This figure is likely well below the amount actually stolen by wage theft yearly. Workers do not report instances of wage theft because of fear of retaliation, lack of resources, and uncertain remedies.

Philips, Peter and David Blatter. (2017). *Two Roads Diverge: Hidden Costs of the Low Wage Approach to Construction.* University of Utah.

Key Finding: Doubling the percentage of construction subbed out to independent contractors leads to a 13.5% decline in payroll taxes and a 11% decline in workers' compensation and unemployment insurance. Employers engaged in payroll fraud and misclassification undercut the larger construction labor market by discouraging laborers to invest in training and encouraging casual attachments to the industry.

Solis, Hilda. (2017). "Opinion: Wage Discrimination in Construction Industry Makes Minimum Standards a Good Idea." *The Mercury News* (San Francisco Bay Area).

Key Finding: One-in-six California construction workers are affected by misclassification and payroll fraud.

Bonilla, Rick. (2017). "Op-Ed: Wage Theft is Preventable." *The Daily Journal*.

Key Finding: It is up to local cities to enact "wage transparency" ordinances to improve accountability.

National Employment Law Project (NELP). (2016). *Contracted Out: Findings from a National Voter Survey*.

Key Finding: In a national survey of 1,000 registered voters, 84% of Americans said that companies misclassifying workers as independent contractors is a serious problem and 78% said that workers are better off when they are employees. 78% favor making it harder for companies to misclassify workers as independent contractors, including 73% of Republicans. Respondents of both political party affiliations support policies that make misclassification more difficult or shift legal liability to employers for contractors who do not pay their full amount due in taxes.

Cooke, Oliver; Deborah Figart; and John Froomjian. (2016). *The Underground Construction Economy in New Jersey*. Stockton University.

Key Finding: An estimated 35,000 workers were misclassified or unreported (roughly 16% of the state's payroll labor force in construction), with unreported wages totaling between \$284 and \$528 million. This amounted to \$20 million in lost state income tax revenue and up to \$7 million in lost UI premiums.

Galvin, Daniel. (2016). "Deterring Wage Theft: Alt-Labor, State Politics, and the Policy Determinants of Minimum Wage Compliance." *Perspectives on Politics*, 14(2): 324-350.

Key Finding: Employers base their wage theft strategies on the expected probability of detection and the monetary cost of a violation being detected. State laws that increase the costs of violations that are detected have led to statistically significant declines in wage theft, if coupled with equally strong enforcement mechanisms.

Katz, Lawrence and Alan Krueger. (2016). *The Rise and Nature of Alternative Work Arrangements in the United States, 1995-2015*. Harvard University; Princeton University.

Key Finding: From 1995 to 2015, non-traditional employment rose from 11% to 16%, with online intermediary work, such as Uber and TaskRabbit, accounting for only 0.5% of workers as of 2015. Workers in non-traditional employment relationships earn less when compared to similar workers in traditional employment relationships.

Duncan, Kevin and Jeffrey Waddoups. (2016). *The Release of Davis-Bacon Certified Payroll Records, Exemption 4 of the Freedom of Information Act, and the Question of Competitive Harm to Contractors*. Colorado State University-Pueblo; University of Nevada, Las Vegas.

Key Finding: Labor is a relatively minor portion of overall costs (14%-27%) in construction, so subcontractors making payroll information public will likely not allow competitors to outbid them. Trade secrets are not revealed in any meaningful way through payroll information. Making payroll information public would not put an employer in a less competitive position in future bids but would assist government regulators in enforcing labor laws related to wage theft.

Schoonmaker, Derek. (2016). "Suit Against Trump Spotlights All-Too-Common Wage Theft." *San Francisco Chronicle*.

Key Finding: Wage theft is a crime against workers, against taxpayers, and against honest businesses. It is prevalent in low-wage industries such as construction, food services, custodial services, and landscaping.

Juravich, Tom; Essie Ablavsky; and Jake Williams. (2015). *The Epidemic of Wage Theft in Residential Construction in Massachusetts*. University of Massachusetts Amherst.

Key Finding: Due to the transient nature of undocumented workers, many working in the construction industry never receive the wages they are owed. Employers in the examined construction projects reduced their building costs by 30% by engaging in wage theft. Many employers liquidated their businesses to avoid repayment of stolen wages.

Cho, Eunice Hyunhye; Tia Koonse; and Anthony Mischel. (2015). *Hollow Victories: The Crisis in Collecting Unpaid Wages for California's Workers*. National Employment Law Project; University of California, Los Angeles.

Key Finding: Only 42% of unpaid wages due to wage theft were recovered after being awarded to victims by the California Department of Labor Standards Enforcement. The low chances of repayment combined with the exhaustive litigative process dissuades many from filing claims of wage theft. In response to low rates of repayment of stolen wages, wage liens can be used to prevent employers from dissolving their company to avoid repayment. When a wage lien is in place, a company dissolving or declaring bankruptcy must retain funds to pay the lien before liquidating.

Carré, Françoise. (2015). *(In)dependent Contractor Misclassification*. Economic Policy Institute.

Key Finding: State-level studies show that 10%-20% of employers misclassify workers independent contractors. High workers' compensation premiums in injury-prone industries such as construction create a financial incentive for employers to hire workers, such as undocumented workers, who will not be covered by workers' compensation. Misclassification weakens the bargaining power of labor in a workplace as contractors are not protected by the NLRA. Misclassification harms employers who properly classify employees as they incur higher payroll costs.

Locke, Mandy and Franco Ordonez. (2015). "Taxpayers and Workers Gouged by Labor-Law Dodge." *McClatchy DC Bureau*.

Key Finding: Misclassification allows fraudulent contractors to underbid law-abiding businesses on publicly-funded construction projects, as evidenced by contracts awarded in the economic stimulus following the Great Recession.

Williams, Erica; Michael Leachman; Marlana Wallace; and Nicholas Albares. (2015). *For States, Inclusive Approach to Unauthorized Immigrants Can Help Build Better Economies*. Center on Budget and Policy Priorities.

Key Finding: This report details policies that may benefit immigrants in the labor market. Strengthened labor law enforcement preventing misclassification and wage theft would boost state economies and increase tax revenue.

Weil, David. (2015). *The Application of the Fair Labor Standards Act's "Suffer or Permit" Standard in the Identification of Employees Who Are Misclassified as Independent Contractors*. Wage and Hour Division. U.S. Department of Labor.

Key Finding: This memo details the varying definitions of "employee" that allow misclassification to continue and describes the factors courts have drafted to weigh when considering the employee-employer relationship.

Leyh, Chelsea. (2015). "Getting a Fair Shake: Reducing the Perils of Worker Misclassification on Federally Funded Construction Projects." *Public Contract Law Journal*, 44(2): 307-325.

Key Finding: This study details legal actions against misclassification in construction and the legal precedents they set. Policy recommendations are provided, such as allowing the USDOL and IRS to share information on misclassification cases to reduce their prevalence by eliminating certain employers from the bidding process.

Miller, Scott. (2015). "Combatting Wage Theft in Illinois: Administering and Enforcing the IWPCA." *The Urban Lawyer*, 47(4): 665-716.

Key Finding: This history of Illinois Wage Payment and Collection Act discusses 2010 amendments that made it one of the strongest anti-wage theft laws in the U.S., such as giving IDOL the power of administrative judgment on wage theft claims of \$3,000 or less, enabling private or class actions against employers, increased criminal penalties for employers guilty of wage theft (up to a Class 4 felony), and enabling private actions against employers for retaliation.

Prakash, Anna and Brittany Skemp. (2015). "Beyond the Minimum Wage: How the Fair Labor Standards Act's Broad Social and Economic Protections Support Its Application to Workers Who Earn a Substantial Income." *ABA Journal of Labor & Employment Law*, 30(3): 367-388.

Key Finding: Under FLSA, employers act as tax collectors in some capacity by deducting taxes from employee paychecks. This efficiency is lost when employees are misclassified. The lost income tax revenue affects the federal government's ability to fund defense, public aid, disease control, veteran's benefits, and law enforcement. Deductions mandated by FLSA also ensure social programs like Social Security, Medicare, and unemployment insurance.

Skinner, Nancy. (2015). "Guest Commentary: Cities Can Play a Role in Stopping Wage Theft." *Marin Independent Journal*.

Key Finding: Wage theft cheats California taxpayers out of at least \$8.5 billion a year in uncollected taxes.

Siffler, Chris. (2014). *Wage Nonpayment in Colorado: Workers Lost \$750 Million Per Year*. Colorado Fiscal Institute.

Key Finding: Wage theft in Colorado disproportionately affects the construction and hotel services industries. Construction accounts for 6% of Colorado’s employment, but 21% of FLSA violations. Across the whole state, the research estimates \$750 million is stolen each year. This results in \$5 million in lost income tax for the state.

Yen Liu, Yvonne; Daniel Flaming; and Patrick Burns. (2014). *Sinking Underground: The Growing Informal Economy in California Construction*. Economic Roundtable.

Key Finding: An analysis of California’s construction industry found that 16% of construction workers were employed in the informal economy in 2011, including 104,100 construction workers who were not reported by their employers and 39,800 who were misclassified as independent contractors. The “informal tax gap” results in \$774 million in lost revenue from payroll taxes alone—\$301 million to the federal government and \$473 million to California.

Alexander, Charlotte and Arthi Prasad. (2014). “Bottom-Up Workplace Enforcement: An Empirical Analysis.” *Indiana Law Journal*, 89: 1069-1131.

Key Finding: As worker power and stability decreases, so does their legal knowledge and ability to contest labor violations in the courts. 43% of workers who experience a workplace problem with their employer did not pursue the claim in court for fear of retaliation or lack of confidence in their claim. 43% of workers who did make a formal experienced retaliation in the form of termination, suspension, decreases in hours, or reporting the worker to law enforcement agencies.

Gleeson, Shannon; Ruth Silver Taube; and Charlotte Noss. (2014). *Santa Clara County Wage Theft Report*. University of California, Santa Cruz; Santa Clara Law.

Key Finding: Filing wage liens is often the responsibility of local government officials. To bring successful wage theft claims, individuals and classes can engage with local government officials for support in ensuring repayment. Local governments can also suspend permits for violators and prosecute violators through the District Attorney.

Ordenez, Franco and Mandy Locke. (2014). “IRS’ ‘Safe Harbor’ Loophole Frustrates Those Fighting Labor Tax Cheats.” *McClatchy D. C. Bureau*.

Key Finding: Due to the “safe harbor” provision in the Revenue Act, revenue officers charged with investigating worker misclassification and payroll fraud often find themselves unable to administer penalties or change employer practices. Some IRS examiners describe the provision as the “greatest impediment” to fighting worker misclassification.

Price, Amy; Emily Timm; and Cristina Tzintzún. (2013). *Build a Better Texas: Construction Conditions in the Lone Star State*. Workers Defense Project; University of Texas at Austin.

Key Finding: A survey of 1,194 construction workers found 41% were misclassified or working off-the-books (a loss of \$55 million in UI tax revenue), 22% had experienced wage theft, and 32% said their employers had no workers’ comp policy.

National Employment Law Project (NELP). (2013). *Winning Wage Justice: A Summary of Research on Wage and Hour Violations in the United States*.

Key Finding: This brief summarizes different wage theft studies by geographic regions and industries in the United States.

Gordon, Colin; Matthew Glasson; Jennifer Sherer; and Robin Clark-Bennett. (2012). *Wage Theft in Iowa*. Iowa Policy Project.

Key Finding: Misclassification is the second-most-cited wage theft offense in Iowa and enables multiple other forms of wage theft such as overtime violations, break time violations, and underpayment of wages. At the time, Iowa had only a single investigator dedicated to wage theft.

Casey, Robert and Eva Lewis. (2011). *Independent Contractors and Employee Misclassification in the Construction Industry*. Ogletree, Deakins, Nash, Smoak & Stewart.

Key Finding: The Illinois Employee Classification Act assumes all construction workers are employees unless the employing party can prove they are independent contractors. In the first 3 years after enactment, \$1.3 million in penalties was recovered for misclassified workers. This bill bars known violators from bidding on public project for up to 4 years.

Kelsay, Michael and James Sturgeon. (2011). *The Economic Costs of Employee Misclassification in the Construction Sector in the Commonwealth of Kentucky*. University of Missouri-Kansas City.

Key Finding: 26% of construction employers in Kentucky were engaged in misclassification. The rate peaked in 2010 with 40%. Employee misclassification led to \$2 million lost each year to the unemployment insurance system, up to \$5 million lost in workers' compensation premiums, and up to \$12 million lost in state income tax revenues.

Wayne, Richard. (2011). *AGC of America's 2011 Labor and Employment Law Symposium: Davis-Bacon Act – Misclassification and Compliance*. Hinckley Allen Snyder LLP.

Key Finding: This is a PowerPoint presentation on Davis-Bacon Act and ways to avoid accidental misclassification.

Kelsay, Michael and James Sturgeon. (2010). *The Economic Costs of Employee Misclassification in the State of Indiana*. University of Missouri-Kansas City.

Key Finding: Nearly half (47.5%) of audited employers in Indiana were engaged in misclassification. An estimated 15% of construction workers were misclassified, costing the state \$2 million in lost unemployment insurance and \$4-\$8 million in lost workers' compensation premiums.

Canak, William and Randall Adams. (2010). *Misclassified Construction Employees in Tennessee*. Middle Tennessee State University; Tennessee Technical University.

Key Finding: Between 12,000 and 39,000 construction workers are misclassified or unreported, affecting 11% to 21% of the construction workforce. Losses to state and federal programs were up to \$15 million for the state's UI program, \$92 million in worker's compensation premiums, \$73 million in federal income tax, and \$42 million in Social Security funding.

Theodore; Nik; Mirabai Auer; Ryan Hollon; Sandra Morales-Mirque; Annette Bernhardt; Ruth Milkman; Douglas Heckathorn; James DeFilippis; Ana Luz González; Victor Narro; Jason Perelshteyn; Diana Polson; and Michael Spiller (2010). *Unregulated Work in Chicago: The Breakdown of Workplace Protections in the Low-Wage Labor Market*. University of Illinois at Chicago; Cornell University; University of California, Los Angeles; Rutgers University; Centers for Disease Control and Prevention.

Key Finding: In this 2008 survey data of front-line workers in Chicago, 26% were victims of minimum wage violations, 17% were not paid legally required overtime, and 10% experienced retaliation when complaining or attempting to unionize. 20% of injured workers experienced an illegal employer reaction. The average worker in the survey lost 16% of earnings to various forms of wage theft, resulting in \$7 million stolen per week in Chicago from low-wage workers.

Belman, Dale and Richard Block. (2009). *The Social and Economic Costs of Employee Misclassification in Michigan*. Michigan State University.

Key Finding: 26% of construction firms misclassified employees. Among those who did so, 19% of their employees were misclassified (i.e., 6% of the entire industry workforce), costing the state over \$2 million in UI tax revenue.

Government Accountability Office (GAO). (2009). *Employee Misclassification: Improved Coordination, Outreach, and Targeting Could Better Ensure Detection and Prevention*.

Key Finding: Misclassification of workers enables other forms of wage theft, such as minimum wage theft. These minimum wage violations are investigated under the Fair Labor Standards Act, which does not address misclassification. State officials believe misclassification has generally increased. The Employment and Training Administrations reported the number of misclassified workers uncovered by state audits had risen, but likely underestimated how much. The Department of Labor has generally investigated misclassification indirectly as a result of investigating broader FLSA violations. Recommendations include coordination between federal and state agencies, outreach to workers on proper classification, and a voluntary IRS settlement program that enables employers to correct their misclassifications.

Edwards, Kathryn and Kai Filion. (2009). *Outsourcing Poverty: Federal Contracting Pushes Down Wages and Benefits*. Economic Policy Institute.

Key Finding: From 2006 to 2007, the number of federal contract workers grew from 1.4 million to 2 million. Nearly 20% of these contract workers were unable to earn a living wage and did not have the same access to healthcare and retirement plans as provided to federal employees.

Cox, Lauren; Emily Timm; and Cristina Tzintzún. (2009). *Building Austin, Building Injustice*. Workers Defense Project; The University of Texas at Austin.

Key Finding: 71% of poverty-wage workers had no access to workers' compensation. When surveyed, union construction workers were 58% more likely to know about their labor rights than non-unionized workers. Access to workers' compensation is one aspect of total compensation and benefits and is especially valuable in injury-prone industries such as construction. 20% of construction workers in Austin who experienced an injury were not able to take advantage of workers' compensation due to their status as independent contractors. This cost was largely absorbed by public hospitals caring for the injured workers. Removing workers' access to workers' compensation places the financial burden of medical care on workers, as well as public hospitals and safety net programs like Medicaid. 71% of poverty-wage workers had no access to workers' compensation.

Sonn, Paul and Tsedeye Gebreselassie. (2009). *The Road to Responsible Contracting: Lessons from States and Cities for Ensuring That Federal Contracting Delivers Good Jobs and Quality Services*. National Employment Law Project (NELP); University of California, Los Angeles; University of Illinois at Chicago; City University of New York; Cornell University; Rutgers University.

Key Finding: A 1983 Housing and Urban Development audit found an inverse relationship between wage violations and quality of projects for federally-funded construction. Recommendations include instituting more rigorous criteria for being a responsible contractor, establishing a preference for employers that provide good jobs with living wages, and strengthening monitoring and enforcement.

Bernhardt, Annette; Ruth Milkman; Nik Theodore; Douglas Heckathorn; Mirabai Auer; James DeFilippis; Ana Luz González; Victor Narro; Jason Perelshteyn; Diana Polson; and Michael Spiller. (2008). *Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America's Cities*. National Employment Law Project (NELP); University of California, Berkeley.

Key Finding: 26% of workers in low-wage industries had experienced a minimum wage violation in the week before. 9% experienced retaliation when complaining to supervisors or attempting to unionize. 50% who reported injury on the job experienced an illegal employer reaction. The respondents who were judged to be in an employment relationship but were classified as contractors (mostly in-home childcare workers) faced higher rates of violations, including 89% of them earning less than minimum hourly wages. Workers paid in cash on daily or weekly rates rather than hourly rates saw the highest percentage of minimum wage violations. Recommendations include proactive investigative enforcement of labor laws specifically regarding misclassification, and stronger legislation to address new strategies to evade liability.

Donahue, Linda; James Ryan Lamare; Fred Kotler. (2007). *The Cost of Worker Misclassification In New York State*. Cornell University.

Key Finding: Nearly 15% were construction employers, resulting in nearly 15% of the New York construction workforce being misclassified. Over \$175 million was lost to the unemployment insurance system.

Government Accountability Office (GAO). (2007). *Employee Misclassification: Improved Outreach Could Help Ensure Proper Worker Classification*.

Key Finding: 22% of independent contractors in the United States worked in construction in 2007. A majority of independent contractors in construction were white, middle-aged men with at least some college education. These demographic characteristics did not prevent them from being misclassified.

Parrott, James. (2007). *Building Up New York, Tearing Down Job Quality: Taxpayer Impact of Worsening Employment Practices in New York City's Construction Industry*. Fiscal Policy Institute.

Key Finding: An estimated 50,000 of over 200,000 New York City construction workers are misclassified or paid entirely off-the-books. In 2005, illegal construction industry practices resulted in a loss of \$489 million to the state. In 2008, this rose to \$557 million, showing these practices are becoming more common and impactful.

Parrott, James. (2007). *New York State Workers' Compensation: How Big Is the Coverage Shortfall?* Fiscal Policy Institute.

Key Finding: In New York State, misclassification across all industries leads to a loss between \$506 million and \$1.0 billion each year in unpaid workers' compensation premiums.

Office of the Legislative Auditor. (2007). *Misclassification of Employees as Independent Contractors*. State of Minnesota.

Key Finding: 15% of Minnesota construction firms misclassified employees. The rates were highest in roofing (38%) and drywall installation (31%) and lowest in road and bridge construction (10%) and site preparation (5%).

Ruckelshaus, Catherine. (2007). *Providing Fairness to Workers Who Have Been Misclassified as Independent Contractors*. National Employment Law Project (NELP). Testimony before the Subcommittee on Workforce Protections of the Committee on Education on Labor in the U.S. House of Representatives.

Key Finding: Research estimates that misclassification rates in the construction industry could be as high as 40%. Later research corroborated that misclassification was a growing practice at the time of this testimony.

Theodore, Nik and Marc Doussard. (2006). *The Hidden Public Cost of Low-Wage Work in Illinois*. University of Illinois at Chicago.

Key Finding: Low-wage jobs in 2001-2004 caused working families to rely on government assistance programs. These families constituted 37% of public benefits spending in Illinois, including \$92 million on families with construction workers.

Weil, David and Amanda Pyles. (2006). "Why Complain? Complaints, Compliance, and the Problem of Enforcement in the U.S. Workplace." *Comparative Labor Law and Policy Journal*, 27(59): 59-92.

Key Finding: For every 130 minimum wage violations in the United States, only one complaint is filed with the appropriate regulatory agency. Explanations for this gap include the fear of retaliation from employers and lack of unionization.

Valenzuela, Abel; Nik Theodore; Edwin Melendez; Ana Luz González. (2006). *On the Corner: Day Labor in the United States*. University of California, Los Angeles; University of Illinois at Chicago; New School University.

Key Finding: Day laborers are predominantly Hispanic, foreign-born men. Nearly half of all surveyed day laborers were victims of wage theft, either in nonpayment or underpayment.

Carré, Françoise and Randall Wilson. (2005). *The Social and Economic Costs of Employee Misclassification in the Maine Construction Industry*. University of Massachusetts Boston.

Key Finding: 14% of construction firms misclassified workers; among employers who misclassify, 45% of workers are misclassified. Overall, 11% of all construction employees are misclassified. State loses \$314,319 annually in lost UI tax revenues, \$2.6 million in lost income tax revenue, and \$6.5 million in lost workers' comp contributions.

Carré, Françoise and Randall Wilson. (2004). *The Social and Economic Cost of Employee Misclassification in Construction*. University of Massachusetts Boston.

Key Finding: In Massachusetts from 2001 to 2003, between 14% and 24% of construction employers were estimated to have workers misclassified as independent contractors. These employers misclassified around 40% of their workforce, meaning at least 5% of the total construction workforce in Massachusetts may have been misclassified. Up to \$4 million in unemployment insurance and up to \$7 million in income tax revenues are lost per year.

Goh, Yong Lee. (2004). *The Effect of Higher Workers' Compensation Premium Rates on Construction Worker Wages and the Reporting of Injuries*. University of Utah.

Key Finding: As workers' compensation premiums rise in construction, workers experience a significant decrease in wages as well as pressure from employers to not report injuries and utilize workers' compensation for medical care.