



## A Message from NFIB's State Director

The National Federation of Independent Business (NFIB) is New York and the nation's leading small business organization, representing nearly 11,000 small and independent business owners across the state. NFIB members depend on NFIB for advocacy and education to support their right to own, operate and grow their business.

Small business is the lifeblood of our state's economy and the fabric of every community across New York. By supporting nearly 3.9 million jobs and contributing more than \$950 billion in annual revenue, any legislative action that discourages small business growth or threatens the ability of small business to remain viable should be strongly rejected.

We encourage you to help strengthen the voice of small business by supporting our legislative priorities. Please contact the NFIB office at (518) 434-1262 to find out about ways that you can get involved and further our efforts to truly make New York "Open" for business.

Sincerely,

## Priorities and Concerns for Small Business



### SUPPORT

Small Business Tax Cuts

Fix Unemployment Insurance Experience Rating  
Related to Paid Leave

Additional Reforms to Workers' Compensation

Enact Sensible "Right to Repair" Legislation

Reform Prevailing Wage Calculation



### OPPOSE

Prevailing Wage Expansion

"Secure Choice" Mandated State Sponsored Retirement  
Plan

New York Health Plan/Single Payer Health Care

New Employer/Labor Mandates - i.e. pay equity, ban the  
box, mandated scheduling, etc.

Tax and Fee Increases

## TAX REFORM



New York State imposes one of the heaviest tax burdens on residents and businesses, earning it consistently low rankings at the bottom of the Tax Foundation's State and Business Climate Index. Despite recent efforts to reduce taxes for select business sectors, small business largely has been left out and has not received any much-needed relief.

### **NFIB SUPPORTS: Small Business Income Tax Reform**

Most small business owners currently pay their business taxes through personal income tax. Reducing the tax burden would encourage reinvestment in businesses and help create jobs. NFIB supports legislation to increase the PIT business and farm income tax exclusion for small employers with an income at or below \$500,000 and a business income less than \$1.5 million.

### **In addition, NFIB supports measures to:**

- Make the property tax cap permanent
- Enact a 2% state spending cap
- Increase sales tax vendor credit from \$200 to \$400
- Reform sales tax assessments by Tax & Finance to use regional/local economic indexes when documentation is unavailable
- Fully repeal the MTA payroll tax
- Require fiscal notes on all new legislation or proposed regulations



### **NFIB opposes legislative proposals to:**

- Adopt ANY new taxes or fees
- Allow cost exemptions under the property tax cap

## LAWSUIT REFORM



NFIB supports sensible tort reform to reduce business costs associated with litigation and to improve New York State's hostile litigious environment.

### **NFIB SUPPORTS: Scaffold Law Reform**

Section 240/241 of the Labor Law holds contractors absolutely liable for any gravity-related injuries that workers sustain, regardless of the worker's negligence. NFIB supports adoption of a comparative negligence standard similar to other forms of liability, which would help improve worker safety, rein in costs of projects, and stimulate job creation.

### **In addition, NFIB supports measures to:**

- Cap non-economic damages, particularly in medical malpractice lawsuits
- Increase transparency for asbestos trust claims
- Enact "Fair Share Liability" legislation
- Reform Trespasser Liability, Interest on Judgments, Contingency Fee Limits

### **NFIB opposes legislative proposals to:**

- Create new private rights of action

# LABOR



Small employers recognize employees as their greatest asset, and they appreciate the needs of the workforce. However, there are vast differences between Main Street or Mom-and-Pop businesses and large corporations. Legislation that prescribes a "one-size-fits-all" solution or imposes new mandates on employers drives up business costs, drawing from any resources small employers would use to grow their business, create jobs or give back to the community. Mandates and regulations often fail to recognize size, location, seasonality, resources, market competition, and profitability, and as a result, small business is disproportionately impacted.

In recent years, employers have faced greater economic uncertainty due to the minimum wage increase compressing all wage scales and the newly enacted paid leave law. Employers simply cannot afford any new mandates, and they need the flexibility to adapt their business to ever-changing economic factors.

## **NFIB SUPPORTS: Fix Unemployment Insurance Experience Rating Related to Paid Leave**

Under current law, an employer's unemployment insurance experience rating could be impacted if an employer releases an employee from work when reinstating a different employee who was out of work on paid leave. NFIB supports this legislation to protect business owners from penalty for reinstating an original employee.

### **In addition, NFIB supports measures to:**

- Ensure that all insurance premiums for paid leave are 100% paid by the employee only
- Allow employers of all sizes to have biweekly payrolls
- Reform MWBE guidelines to reflect local or regional demographics
- Increase the efficiency and transparency of the MWBE application and certification process
- Abolish Executive power to impanel future wage boards
- Adopt a clear definition of employee and independent contractor

## **NFIB SUPPORTS: Prevailing Wage Calculation Reform**

Current law requires public construction projects to pay prevailing wage, which in New York is actually a reflection of current collective bargaining agreements and not a true "prevailing wage." NFIB further strongly opposes efforts to apply prevailing wage to private projects. True reform to the calculation of prevailing wage will save taxpayers billions on state and local priorities.

Some suggestions for reform of the prevailing wage calculation include increasing transparency; limiting "wage" to the amount directly paid to workers (exclude union benefits); survey construction workers in a region to determine how many are covered by a bargaining agreement; and use federal statistics or UI job classification data to determine regional wages when the required 30% standard has not been met.

## **NFIB OPPOSES:**

- Efforts to apply prevailing wage to private projects
- "On Call" scheduling mandates that fail to recognize the complexity of operating a small business
- Mandating state-sponsored retirement plans
- Comparable worth/pay equity legislation that opens up employers to litigation
- Restrictions on reasonable employer inquiries regarding salary history or criminal convictions
- Factory-style mandates on family farms
- Restrictions on non-compete clauses
- Mandating Project Labor Agreements that exclude merit shop and independent contractors

*Sorry,* WE'RE  
**CLOSED**

# HEALTHCARE



Small business owners in New York State consistently rank the high cost of health insurance as a top concern, which reflects data that shows the average employer-sponsored health insurance costs in our state are the second highest in the nation. NFIB supports making health care more affordable by reducing state taxes, controlling labor costs, and eliminating mandates on insurers.

## **NFIB SUPPORTS: Repeal of the HCRA Surcharge**

Since 1996, health care entities and insurers have been responsible for paying the HCRA surcharge. Initially enacted as a temporary tax to pay for healthcare related expenses, the tax has been extended numerous times and now generates billions of dollars spent on many projects with little or no oversight. The HCRA surcharge is the third highest tax that the state levies, amounting to \$4.6 billion, and it should be repealed to help lower health insurance costs.

### **In addition, NFIB supports measures to:**

- Appoint the Healthcare Quality Cost Containment Commission to review current and proposed mandates
- Increase transparency in DFS rate setting
- Establish minimum health care contributions for public employees and retirees

## **NFIB OPPOSES: Single Payer System**

Legislation to replace our current system of health care coverage with a state-run, universal access system is a proposal that analysts on both sides of the issue agree will have significant costs-- The state would have to levy more than \$92 billion in taxes to pay for such a system, which would more than double New York's highest in the nation tax burden according to The Empire Center for Public Policy.

Proposals advanced in recent years suggest an employer payroll tax and a personal income tax hike would generate the revenue needed to operate the system. Plans for a single payer system would substantially increase overall health care spending yet would not improve quality of care.

## **NFIB OPPOSES:**

- New unfunded mandates such as creating nurse staffing ratios and out of network provider reimbursement
- Efforts to allow collective bargaining by physicians and other healthcare providers
- Establishment of a guaranty fund, a tax on health insurance premiums to cover unpaid claims when a health plan collapses

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# ENERGY



Small businesses need reliable and affordable energy in order to operate, especially in the manufacturing sector. NFIB supports policies to modernize the energy infrastructure, lower costs and increase access to energy resources.

## **NFIB SUPPORTS: Cost-Benefit Analysis of Reforming the Energy Vision (REV)**

The REV initiative, a comprehensive strategy to reduce greenhouse gases, develop renewable energy resources and make buildings more energy efficient by 2030, not only aims to protect the environment but also has the stated goals of creating jobs and economic development. While NFIB supports the modernization of our energy delivery system, we are concerned that REV will increase costs on consumers. NFIB supports a cost-benefit analysis of this initiative.

### **In addition, NFIB supports measures to:**

- Allow for the transport of liquefied natural gas
- Expand access to natural gas for businesses
- Repeal DERA (Diesel Emission Reduction Act)

### **NFIB opposes proposals to:**

- Establish a statewide bioheating fuel mandate
- Efforts to impose new energy taxes, especially a new state carbon tax

# ENVIRONMENT

NFIB encourages the sensible and balanced approach to reviewing economic development and protecting the environment. It is crucial that potential risks to the environment, health and safety are minimized. However, the state's overly restrictive and often duplicative policies hurt investment and job growth.

## **NFIB SUPPORTS: Reform of the State Environmental Quality Review (SEQR) Process**

Development projects across the state and country are subject to federal, state and local laws designed to protect the environment and address community impact. New York has an additional comprehensive statute, SEQR, which is unlike most in the nation. This process is a regulatory barrier to development.

NFIB supports streamlining the review process by creating definitive timelines, restricting the ability of lead agencies to introduce new issues late in the process, and eliminate duplicative standards such as "community neighborhood character," which is addressed by local planning and zoning laws.

### **NFIB OPPOSES:**

- Unilateral product bans and restrictions absent sound scientific evidence. Such bans threaten jobs across many industries.
- An expanded mandated chemical review process by the state. More than a dozen consumer product and safety laws and regulations are in place at the federal level to ensure proper design and management of chemical products.



## WORKERS' COMP REFORM

The reforms to the New York State Workers' Compensation system adopted in last year's budget are a step in the right direction to help lower costs for employers; however, New York State, with the third highest comp rates in the country, still remains uncompetitive with other states. NFIB will continue to push for lower comp rates and will fight to ensure that enacted reforms achieve cost savings.

### **NFIB SUPPORTS: Modernization of the Scheduled Loss of Use (SLU) Impairment Guidelines**

A key piece of the meaningful reforms package passed last year includes the adoption of new medical impairment guidelines. Last updated more than two decades ago, the SLU guidelines currently do not reflect advances in modern medicine. Final guidelines must be sensible and clear, and they must balance necessary protections for truly injured workers while decreasing significant costs for employers.

### **NFIB SUPPORTS: Reforming the Transportation Fair Play Act to change the way the New York State Insurance Fund (SIF) calculates workers' compensation for shipping brokers or freight forwarders.**

Currently, the New York State Insurance Fund (SIF) requires the classification of third-party transportation providers as employees; therefore third-party logistics companies are required to pay workers' comp for non-employees.

#### **In addition, NFIB supports measures to:**

-Lengthen the current preferred provider opt-out period from 30 to 90 days

#### **NFIB OPPOSES:**

- Legislation to expand workers' compensation benefits by adding vague conditions for qualification
- Requirements that create onerous conditions for medical examinations
- Proposals that undo any of the recently adopted reforms

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## ECONOMIC DEVELOPMENT & INFRASTRUCTURE

New York State has for far too long incentivized certain industry sectors in order to help them grow. At the same time, it has strangled other industries and businesses by raising business costs. NFIB supports creating an organic economic environment where all businesses have an opportunity to grow and prosper.

### **NFIB SUPPORTS: An Independent Audit of the State's Economic Development Program Spending**

Several recent reports show little oversight and accountability for failure to meet benchmarks for the state's economic development programs. With more than \$8.5 billion in taxpayer money spent on these programs, it is critical that an independent, thorough and transparent analysis is completed, and the state should curtail any increases in spending on these programs until the audit is complete. This is especially important in light of projected revenue shortfalls and the state's poor business and tax climate.

#### **In addition, NFIB supports measures to:**

- Ensure access to broadband for ALL rural households and businesses and boost internet speeds in rural areas
- Expand and make permanent Design Build
- Reform WICKS law

#### **NFIB OPPOSES:**

- State-specific labeling on goods sold in interstate commerce

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## REGULATORY REFORM



Small business owners regularly cite administrative complexity and financial costs associated with compliance as a challenge of doing business in New York. With nearly 750,000 regulations totaling more than 140,000 pages of rules, it's critical that lawmakers first take a hard look at the existing impact of red tape on New York's business environment.

Eliminating the reported 2,200 or more duplicative, outdated or unnecessary existing regulations that Senate lawmakers identified as strangling business is just one part of addressing the stifling regulatory environment.

The second part of the effort to reform the state's regulatory environment concerns the adoption of new regulations. Over the past decade, state agencies introduced an average of 275 new rules each year, according to a Senate report on regulatory burdens. Although current law requires state agencies to complete an impact analysis for proposed regulations, the regulatory impact statements rarely fully disclose the true impact on businesses. Accurate detailed evaluation of the impacts and greater transparency is necessary to support the adoption of new regulations.

### **NFIB supports legislative proposals to:**

- Improve "job impact" analyses for proposed regulations
- Establish a business ombudsman at agencies to provide compliance guidance
- Reduce regulatory fines or give a "free pass" for the first violation of a regulation
- Limit the use of emergency rulemaking authority of agencies
- Extend notice of proposed rulemaking to allow for greater participation and input from small business

## CONSUMER CHOICE

NFIB supports fair competition and business practices that will both give consumers choice and support the spirit of entrepreneurship. When electronics break, consumers should have options to service their items. Current law, however, allows manufacturers to engage in unfair practices by blocking access to repair information, which limits consumer choice, inhibits local job creation and stifles innovation. NFIB supports legislation that will require manufacturers to provide owners and independent businesses with fair access to service information, security updates, and replacement parts.



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