

Direct Assault on Main Street:

Looming Labor
Threats That
Could Decimate
Small Businesses
and Their
Workforce

Background

NFIB is the nation's leading small business advocacy organization, advocating on behalf of nearly 300,000 small business owner members in Washington, D.C., all 50 state capitals, and in our nation's courts. NFIB's mission is to promote and protect the right of our members to own, operate, and grow their businesses. NFIB is proud to represent small businesses nationwide from every industry and sector.

NFIB members are not publicly traded multi-billion-dollar corporations. Quite the contrary; the average NFIB member has eight employees, and every NFIB member is individually owned and not publicly traded. Small businesses employ nearly half this country's workforce and represent 99.9% of all American businesses.¹ It is no exaggeration to say that for the American workforce to be successful, small businesses must be successful.

NFIB's research shows that workforce challenges have continued to persist. Nearly 25% of small businesses list "locating qualified employees" and "finding and keeping skilled employees" as critical issues facing their business.² Further, 33% of small businesses continue to report that they have job openings that they cannot fill.³ More labor and employment mandates and regulations only exacerbate these issues and make it harder for small businesses to create jobs, hire, and retain workers.

Looming Bipartisan Labor Threats to Small Business

Unfortunately, members of both parties in Congress ignore the challenges faced by small businesses and prioritize the interests of big union leaders in Washington, D.C.

¹ *Frequently Asked Questions About Small Business 2024*, U.S. Small Business Administration, Office of Advocacy (July, 23, 2024), available at <https://advocacy.sba.gov/2024/07/23/frequently-asked-questions-about-small-business-2024/>

² Holly Wade & Madeleine Oldstone, 2024 Small Business Problems & Priorities, NFIB Research Center, October 2024, <https://nfib.com/wp-content/uploads/2024/10/2024-Small-Business-Problems-Priorities.pdf>

³ William C. Dunkelberg & Holly Wade, *NFIB Small Business Economic Trends Survey July 2025*, NFIB Research Center, July 2025, https://www.nfib.com/news-article/monthly_report/sbet/

Policy proposals in Congress led by both Republicans and Democrats directly threaten small businesses and their workforce. These proposals could wipe out many Main Street businesses that members of Congress say they support. The proposals would significantly increase government involvement in the daily operations of small businesses, boost labor and employment mandates, and raise costs for hiring and keeping qualified employees.

It is important to remember that small businesses operate differently from their larger competitors. Most small businesses do not have a dedicated compliance officer or human resources department; those responsibilities fall on the business owner. Small business owners are not labor and employment law experts. They are experts at running their business and cultivating rewarding and beneficial workplaces so their workers are fulfilled and satisfied, and the business can survive and grow.

Any small business owner can tell you their workforce is their greatest asset. It's time for lawmakers in Washington, D.C., to stop using small business owners and their employees as political pawns and let small businesses be free to grow and flourish.

Protecting the Right to Organize (PRO) Act (H.R. 20 / S. 852)

The *Richard L. Trumka Protecting the Right to Organize (PRO) Act* is a radical piece of legislation that would dramatically upend long-standing employment law in favor of labor unions at the expense of small businesses and American workers.

The *PRO Act* includes numerous policies that would devastate small businesses such as legalizing secondary boycotts, requiring employers to provide personal contact information for employees to union organizers, codifying the National Labor Relations Board's (NLRB's) expansive Browning-Ferris Industries joint-employer standard, implementing an unworkable and complicated employee vs independent contractor classification test, abolishing state "Right-to-Work" laws, and banning so-called "captive audience" meetings.

This legislation harms workers, restricts free choice, and hurts small businesses. The PRO Act could enable intimidation of small business owners, remove constitutional

rights from workers and small businesses, and poses a serious threat to small businesses across the country. Congress should reject this extreme legislation.

NFIB Member Input:

- ▶ 92% of NFIB members oppose legislation that allows unions to picket an employer's suppliers and customers during a labor dispute.⁴
- ▶ 93% of NFIB members oppose requiring employers to provide the personal contact information of their employees to union organizers.⁵
- ▶ 89% of NFIB members oppose making contractors liable for the hiring practices of their subcontractors.⁶
- ▶ 95% of NFIB members believe small businesses should be able to hire independent contractors to perform tasks essential to their business.⁷
- ▶ 73% of NFIB members believe there should be a national right-to-work law.⁸
- ▶ 91% of NFIB members oppose limiting the ability of employers to speak to their workers during union campaigns and elections.⁹

Warehouse Worker Protection Act (H.R. 4896 / S. 2613)

The *Warehouse Worker Protection Act* is anti-small business legislation that includes policies overwhelmingly opposed by small businesses.

For example, the *Warehouse Worker Protection Act* would impose a de facto ban on all workplace productivity standards, such as quotas or metrics. This ban would do little to improve workplace health and safety but would create an absurd and unworkable mandate on tens of millions of small businesses across the country.

⁴NFIB Member Ballot, Mandate vol. 573, August 2018, *Should Congress pass legislation that allows unions to picket an employer's suppliers and customers during a labor dispute?* (Yes: 3% No: 92% Undecided: 4%)

⁵NFIB Member Ballot, Mandate vol. 575, August 2019, *Should employers be required to provide the personal contact information of employees to union organizers?* (Yes: 2% No: 93% Undecided: 5%)

⁶NFIB Member Ballot, Mandate vol. 567, August 2015, *Should a contractor be responsible for a subcontractor's hiring practices?* (Yes: 7% No: 89% Undecided: 5%)

⁷NFIB Member Ballot, Mandate vol. 576, March 2020, *Should businesses be able to hire independent contractors to perform tasks essential to their business?* (Yes: 95% No: 2% Undecided: 3%)

⁸NFIB Member Ballot, Mandate vol. 563, March 2013, *Should there be a national right-to-work law?* (Yes: 73% No: 18% Undecided: 8%)

⁹NFIB Member Ballot, Mandate vol. 558, April 2010, *Should Congress limit the ability of employers to speak to their workers during union campaigns and elections?* (Yes: 5% No: 91% Undecided: 5%)

Another provision would revive the Clinton Administration's OSHA Ergonomics Rule that dramatically increased regulatory compliance costs for small businesses and could have left employers responsible for injuries to employees that happen outside of work. It is important to note that Congress already repealed the Clinton Ergonomics Rule in 2001. However, the *Warehouse Worker Protection Act* would reinvent the mandate.

The legislation would also establish a "Quota Task Force" consisting of union representatives and worker advocacy groups. Part of its role is to help enforce the de facto workplace productivity standard ban, effectively deputizing biased union representatives to carry out enforcement duties usually performed by the Department of Labor.

The *Warehouse Worker Protection Act* would dramatically increase regulatory compliance costs, impose unworkable mandates, and would have devastating effects on small businesses and the larger economy. The legislation would significantly increase federal control over small businesses. Congress must reject the *Warehouse Worker Protection Act*.

NFIB Member Input:

- ▶ 82% of NFIB members oppose restricting or eliminating the ability of small businesses to use workplace performance standards such as quotas or metrics to measure employee productivity.¹⁰
- ▶ 98% of NFIB members oppose making employers responsible for employee injuries that occur outside the workplace and on an employee's personal time.¹¹
- ▶ 85% of NFIB members oppose allowing unions to investigate and enforce federal labor laws on behalf of the Department of Labor.¹²

¹⁰ NFIB Member Ballot, Mandate, vol. 586, April 2025, *Should Congress restrict or eliminate the ability of small businesses to use workplace performance standards such as quotas or metrics to measure employee productivity?* (Yes: 8%, No: 82%, Undecided: 10%).

¹¹ NFIB Member Ballot, Mandate, vol. 585, August 2024, *Should employers be responsible for employee injuries that occur outside the workplace during an employee's own personal time?* (Yes: 1% No: 98% Undecided: 1%)

¹² NFIB Member Ballot, Mandate, vol. 585, August 2024, *Should unions be allowed to investigate and enforce federal labor laws on behalf of the Department of Labor?* (Yes: 5% No: 85% Undecided: 9%)

Faster Labor Contracts Act (S. 844)

The *Faster Labor Contracts Act* would strip workers, unions, and employers of their rights to negotiate the terms and conditions of collective bargaining agreements. Instead, the legislation mandates a government-appointed arbitrator to write and impose a binding two-year labor contract without the advice, consent, or approval of workers, employers, or the union, should an agreement not be completed within 120 days.

The most shocking aspect for small businesses is that these government-written contracts do not have to ensure the viability of the business. The *Faster Labor Contracts Act* would essentially put small businesses at the mercy of government bureaucrats, which could lead to small businesses being forced to close their doors due to an unviable labor contract imposed on them by the federal government.

The *Faster Labor Contracts Act* is a radical piece of legislation that will dramatically expand the federal government's size and increase its involvement in the operations of small businesses nationwide. Congress should reject this legislation to prevent the government from determining which businesses survive and which close.

Minimum Wage Hikes

Multiple proposals are making their way through Congress from both Republicans and Democrats to increase the minimum wage to \$15 per hour or higher. These proposals would immediately raise labor costs for small businesses in 40 states where the minimum wage is currently below \$15 per hour. These federal minimum wage hike proposals would implement a one-size-fits-all policy that mandates small businesses in rural, low-cost-of-living areas pay the same wage as an employer in an urban, higher-cost-of-living area.

Specifically, the *Higher Wages for American Workers Act* (S. 2013) would immediately increase the federal minimum wage by more than 106% to \$15 per hour and annually increase the federal minimum wage indexed to inflation.

Additionally, the *Raise the Wage Act* (H.R. 2743 / S. 1332) would immediately increase the federal minimum wage by 30% and dramatically increase the federal minimum wage

to \$17 per hour by 2030. The legislation also annually increases the minimum wage indexed to inflation and eliminates the federal tipped wage.

NFIB's research shows a grim economic reality if Congress raises the minimum wage to \$15 per hour. This policy change would result in 1.3 million lost jobs in the United States, with small businesses bearing most of these job losses.¹³ That massive job destruction does not account for the additional lost jobs from indexing the minimum wage to inflation.

Small businesses operate differently from their larger competitors. They are far less likely to have the cash reserves or profit margins to absorb the labor cost increases these proposals would impose on them. Consequently, larger competitors often use regulations like minimum wage increases, to serve as protection from smaller, more nimble competitors. The reality is that heavy-handed government regulations often protect large businesses, promote industry consolidation, and are anticompetition in the marketplace.

To prevent these devastating effects to our economy, Congress must reject both the *Raise the Wage Act* and the *Higher Wages for American Workers Act*.

NFIB Member Input

- ▶ 92% of NFIB members oppose raising the federal minimum wage to \$15 per hour.¹⁴

Occupational Safety and Health Administration's 2024 Proposed Heat Standard

On August 30, 2024, the Occupational Safety and Health Administration (OSHA) proposed a Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings rule (Heat Standard). OSHA's proposed Heat Standard is a one-size-fits-all approach that would impose burdensome new mandates on small businesses across the country when temperatures are at or above 80 degrees Fahrenheit at the worksite, without regard to regional climate differences or industry-specific job functions.

¹³ NFIB, *Small Business Survival*, <https://assets.nfib.com/nfibcom/Minimum-Wage-Pizza-Parlor-Infographic-06-03-2021-FINAL.pdf>

¹⁴ NFIB Member Ballot, Mandate, vol. 569, July 2016, *Should the federal minimum wage be raised to \$15 per hour?* (Yes: 5% No: 92% Undecided: 4%).

Specifically, the rule would require employers in general industry, construction, maritime, and agricultural sectors to identify heat hazards, implement engineering and work practice heat control measures, develop a heat illness and emergency response plan, train personnel, and keep records. For example, the rule mandates that workers receive a 15-minute break every two hours if temperatures reach 90 degrees Fahrenheit or above in the workplace.

The Trump Administration should immediately reject the previous administration's proposed Heat Standard and withdraw the proposed rule. Additionally, Congress should pass legislation to ensure that the proposed OSHA Heat Standard cannot be finalized and prevent OSHA from undertaking a similar rulemaking. Legislation stopping a heat standard will reduce the risk of new costly regulatory requirements for small businesses and prevent future administrations from pursuing a similar rulemaking.

NFIB Member Input:

- ▶ 89% of NFIB members oppose the federal government regulating and restricting business operations when temperatures are above 80 degrees Fahrenheit at the worksite.¹⁵

Department of Labor's 2024 Independent Contractor Rule

On January 10, 2024, the Department of Labor (DOL) finalized its Employee or Independent Contractor Classification Under the *Fair Labor Standards Act* rule (2024 Rule).¹⁶ The 2024 Rule revoked DOL's 2021 simplified and straightforward independent contractor or employee classification test and replaced it with a complex, bureaucratic, and arbitrary standard. The 2024 Rule makes it more difficult for small businesses to comply, hire, and classify workers as independent contractors.

Fortunately, DOL recently announced it will not enforce the 2024 Rule¹⁷ which was a positive development for small businesses. Still, uncertainty remains since a future

¹⁵NFIB Member Ballot, Mandate vol. 586, April 2025, *Should the federal government regulate and restrict business operations when temperatures are above 80 degrees Fahrenheit at a worksite?* (Yes: 5%, No: 89%, Undecided: 6%).

¹⁶[Final Rule: Employee or Independent Contractor Classification Under the Fair Labor Standards Act, RIN 1235-AA43 | U.S. Department of Labor](#)

¹⁷[US Department of Labor issues guidance on independent contractor misclassification enforcement | U.S. Department of Labor](#)

administration could reverse course. For long-term certainty, Congress should step in and provide certainty to small businesses that use independent contractors by passing the Modern Worker Empowerment Act (H.R. 1319). The legislation would codify the simplified 2021 classification test and ensure small businesses can continue to use independent contractors.

NFIB Member Input:

- ▶ 95% of NFIB members believe small businesses should be able to hire independent contractors to perform tasks essential to their business.¹⁸

Occupational Safety and Health Administration's 2024 Worker Walkaround Rule

On March 21, 2024, the Occupational Safety and Health Administration (OSHA) finalized its Worker Walkaround Representative Designation Process rule, or Walkaround Rule.¹⁹ The rule allows biased union representatives to accompany OSHA inspectors during worksite investigations, even if the businesses are nonunionized.

Unfortunately, the Walkaround Rule does not improve worker safety; instead, it could give unions access to non-unionized businesses, potentially tipping the balance in the union's favor. The rule undermines OSHA's mission by distracting inspectors from enforcing federal workplace safety standards and shifting their focus to monitoring third parties' activities during inspections.

The administration should immediately withdraw the rule and protect small businesses from intimidation and infiltration by biased union representatives during routine OSHA inspections.

¹⁸ NFIB Member Ballot, Mandate vol. 576, March 2020, *Should businesses be able to hire independent contractors to perform tasks essential to their business?* (Yes: 95% No: 2% Undecided: 3%)

¹⁹ [US Department of Labor issues final rule to clarify rights to employee representation during OSHA inspections | Occupational Safety and Health Administration](#)

NFIB Member Input:

- ▶ 86% of NFIB members believe that employers should not be required to allow union officials to accompany OSHA inspectors during routine health and safety inspections.²⁰

Conclusion

Small businesses remain optimistic about their futures. However, major threats loom on the horizon. These threats would significantly increase the federal government's control over small businesses. Congress and the administration can deliver pro-business policies for small businesses, but they must reject radical, big government policies that increase uncertainty, regulatory burdens, and red tape.

²⁰ Mandate, vol. 568, NFIB Member Ballot, February 2016, Should employers be required to allow union officials to accompany the DOL's Occupational Safety and Health OSHA Inspections Administration (OSHA) inspectors during routine health and safety inspections? (Yes: 5% No: 86% Undecided: 9%).