Business Day AT THE CAPITOL

NFIB

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The Business Council

FARM BUREAU NEW YORK

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AGC NEW YORK STATE

New York State HOSPITALITY & TOURISM Association

GREATER BINGHAMTON CHAMBER OF COMMERCE

MACNY The Manufacturers Association

BUFFALO NIAGARA PARTNERSHIP

NEW YORK STATE RESTAURANT ASSOCIATION

Empire State Restaurant & Tavern Association

ABC Empire State Chapter

Lawsuit Reform Alliance of New York

Northeast Dairy Foods Association, Inc.

American Chemistry Council

Northeast Agribusiness & Food Alliance

New York HPA

NRLA Northeastern Retail Lumber Association

The Employer Alliance for Affordable Health Care

NYSBA

NYACS

NEW YORK STATE EDC Economic Development Council

DUTCHESS COUNTY

ROME AREA CHAMBER OF COMMERCE

Chamber of Commerce

Fulton Montgomery REGIONAL CHAMBER OF COMMERCE

OPPOSE

$15/Hr. MINIMUM WAGE

A.9006 (Budget) / S.8406 (Budget) – PART K

We, the organizations listed, represent thousands of businesses throughout New York State, and we ***OPPOSE*** this provision of the 2016-17 Executive Budget proposal to increase the minimum wage to $15.00 per hour in New York City by 2018 and the rest of the state by 2021.

This unprecedented 67% increase in labor costs threatens to have devastating consequences on business, farms, not-for-profits, hospitals, local governments and municipalities, and school districts that are unable to absorb additional expenses. A $15.00 per hour minimum wage will result in $14,000 per employee/per year increase in cost of labor for a full time position including payroll, social security, Medicare and workers compensation.

Small employers and family farms in particular will face the most adverse impacts of a wage hike because of a limited ability to increase sales and few options to mitigate the increased labor costs. In order to accommodate added costs, small businesses and family farms will be forced to raise prices, introduce efficiencies when possible or reduce labor costs by cutting hours and jobs.

Most studies find that, when the minimum wage increases, employment goes down. According to the Empire Center for Public Policy, a $15.00 minimum wage would cost at least 200,000 private-sector jobs, with Upstate New York at risk for the greatest jobs lost. Other studies say job losses could be as high as 588,000.

A higher minimum wage also prices unskilled and inexperienced workers out of the job market and dampens the demand for new employees. A $15.00 per hour minimum wage will drive up the cost of entry-level jobs making them harder to find for inexperienced workers and more attractive to better qualified candidates against whom the less experienced workers can't compete.

Although this proposal may be well-intentioned, it fails to accomplish intended public policy goals of reducing poverty or increasing economic opportunities. It will only increase the cost of goods and services for consumers and limit the ability of small business to grow.

Accordingly, we strongly oppose this provision and urge its defeat.

OPPOSE

MANDATORY PAID LEAVE

S.6405 (Budget) / A.9005 (Budget) – PART II

We, the organizations listed, represent thousands of businesses throughout New York State, and we ***OPPOSE*** this legislation to amend the Worker's Compensation Law to provide up to 12 weeks of paid leave for covered employees to bond with an infant or newly-adopted child or to care for a seriously ill family member.

While this proposal would be largely be funded by employees via a payroll deduction, the business community has concerns on several fronts.

This proposal would cover all employers, regardless of size. The federal Family Medical Leave Act (FMLA) currently exempts businesses with fewer than fifty employees in recognition of the unique nature of small businesses. This proposal, unlike FMLA, does not offer an exemption for small business. As a result, thousands of small businesses with less than fifty employees that are exempt from FMLA would be required to comply with the new state leave mandate. Additionally, Connecticut's paid leave law exempts businesses with 50 or fewer employees and a similar law in Massachusetts exempts businesses with fewer than 11 employees.

This paid leave benefit would kick in after just four weeks of employment. This, again, runs counter to the current FMLA eligibility requirements that employees must work for an employer for at least 12 months with at least 1,250 hours of service during the preceding months.

Proposed leave duration of 12 weeks is significantly longer than currently enacted state leave laws. Only three states have enacted a paid leave mandate in the United States and none have a leave duration close to the 12 weeks proposed. New Jersey and California both offer 6 weeks of leave while Rhode Island's benefit is four weeks.

Stating there will be no costs to employers is false. Insurance carriers will assuredly pass additional coverage costs onto employers. Further, for small businesses costs could include overtime for other employees filling in for the employee on leave or the cost of hiring and training a temporary employee. It is important to note that temporary employees often cannot be integrated into the operation of a small business as many small businesses require skilled and trained workers. Replacement workers with specialized skills also are difficult to attract to temporary positions, which means a position vacated by an employee on paid leave results in lost productivity for the small business.

Surveys conducted by the National Federation of Independent Business (NFIB) find that most small businesses provide flexible leave for employees. Small business owners often compete for employees on the flexibility they can offer employees. Studies show that mandated leave time will result in a decreased ability of employers to offer other benefits that employees may want more than paid family leave, such as health insurance or additional vacation days. A paid leave mandate will impede small employers' ability to attract and retain employees based on desirable benefits offerings.

This proposal, while perhaps well intended and mindful of both sides of this issue, is flawed and will create new mandated burdens on small employers. Accordingly, we oppose this provision and urge its defeat.

OPPOSE

MANDATORY PAID LEAVE

S.6405 (Budget)/ A.9005 (Budget) – Part H

Background:

This proposal would:

(1) Require employers of all sizes to provide up to 12 weeks of paid leave for covered employees to bond with an infant or newly adopted child or to care for a seriously ill family member.

(2) Be largely funded by employees through a payroll deduction.

(3) Take effect for employees after just four weeks of employment.

Talking Points:

- **Small business owners value their employees, and most already offer some type of flexible leave for employees.** Another government mandate is not necessary and interferes with employer-employee relationships in small businesses.

- Small business owners often compete with larger employers based on the benefits that they can provide. **A paid leave mandate, with conditions as to when employees can take time, will result in a decreased ability for employers to offer benefits that employees may want more than paid leave** like additional vacation or personal days or health insurance.

- **Stating that there is no cost to employers is false.** Costs include overtime for workers filling in for employees on leave or reduced productivity. Small businesses often cannot attract skilled or specialized workers willing to take a temporary position, which means lost productivity.

- **This proposal would create undue administrative burdens for employers because it differs from other state and federal laws.** The Family Medical Leave Act exempts businesses with 50 or fewer employees and requires that employees must work for an employer for at least 12 months. This applies to businesses of all sizes and becomes effective after just four weeks of employment.

- **Paid leave mandates will make New York less competitive with other states and add to the perception that the state is not business friendly.** Other states acknowledge the unique nature of small business by exempting employers of a certain size. Connecticut exempts businesses with 50 or fewer employees, while Massachusetts exempts employers with 10 or fewer employees.

- **The proposed 12 week leave policy far exceeds paid leave offered in other states.** Only three other states currently offer wage replacement paid leave financed through an employee payroll deduction. New Jersey and California offer 6 weeks. Rhode Island offers 4 weeks.

SMALL BUSINESS TAX CUTS

S.6409 (Budget) / A.9009 (Budget), Part R

We, the organizations listed, represent thousands of businesses throughout New York State, and we ***SUPPORT*** this provision of the 2016-17 Executive Budget proposal that reduces taxes for small business.

This proposal would reduce the corporate tax rate for small employers that file under Article 9A from 6.5% to 4% for businesses with a business income base of $290,000 or less. Additionally, with the vast majority of small businesses filing via Article 22, the small business exclusion would be increased from 5% to 15% for net farm and/or net business income under $250,000. This second proposal will capture many small businesses filing through the personal income tax and is welcome news.

Small employers in New York State have staggering costs of doing business that stifle economic growth and job creation. Reports show that high unemployment insurance, healthcare, energy and workers' compensation costs as well as burdensome regulations and a litigious business environment drive businesses and people from the state. Those conditions, combined with the fact that New York has the highest individual and business tax burden in the country, cement the state as 49th in business friendliness according to the Tax Foundation. This small business tax cut proposal finally acknowledges the unique challenges small business owners face and provides modest relief.

Although this proposal is a positive start, it could be strengthened by increasing the income threshold to $500,000 to incorporate a larger population of small business owners. This threshold would be similar to the 2015-16 Senate One-House Budget proposal (S.4209, Part N).

We strongly support the proposed tax cuts specifically aimed at small business.

SUPPORT

SMALL BUSINESS TAX CUTS

S.6409 (Budget)/ A.9009 (Budget) – Part R

Background:

This proposal would:

(1) Reduce the corporate rate from 6.5% to 4% for small employer that file under Art.9A with an income base of $290,000 or less. The rate is phased up to the standard rate applicable to businesses with $390,000 or more.

(2) Increase the income exclusion for small businesses filing via Art.22 from 5% to 15%. It would include sole proprietors, farms, partnerships, S-corps and LLCs with $1.5 million gross receipts and net business income under $250,000.

(3) Help approximately 1.1 million businesses across the state save $298 million.

Talking Points:

- **This proposal specifically targets the smaller businesses that make up Main Street.** For the purpose of this tax cut, a "small business" is one that has 100 employees or fewer and $390,000 or less in net income. These are the job creators that drive the economy of the state and account for 43% of the state's private sector jobs.
- Most small business owners pay their business taxes through personal income tax. **A small business tax cut gives business owners more money to reinvest in their business and create jobs.**
- **A small business tax cut would provide modest relief from high costs that drive businesses from the state** including unemployment insurance, workers compensation, healthcare and energy costs.
- **A small business tax cut is necessary in order to increase New York's competitiveness.** Our state currently has the highest individual and business tax burden in the country. The Tax Foundation ranks the state as 49th in business friendliness.

OPPOSE
HEALTH INSURANCE GUARANTY FUND

S.6067 (Valesky) / A.9311 (Gottfried)

We, the organizations listed, represent thousands of businesses throughout New York State, and we ***OPPOSE*** the legislation to collect an assessment to pay outstanding bills for insolvent insurance plans.

This legislation would establish a guaranty fund to help pay back physicians and hospitals when an insurance company becomes insolvent, such as in the case of Health Republic Insurance of New York. The guaranty fund to cover claims of failed insurers would be paid for by a tax on all health insurers based on premiums collected.

The rising cost of health insurance in New York is a major concern for employers and individual consumers alike. A new healthcare tax would only add to high costs without offering any additional coverage in a state that already has a crushing tax burden. While New York is the only state without a guaranty fund, it also is the only state that has the Health Care Reform Act (HCRA) that imposes nearly $5.6 billion in taxes that total 5% of current premiums.

Impact of HCRA Taxes

Average Single Premium per Enrolled Employee For Employer-Based Health Insurance*	5% HCRA Taxes	$ Tax Impact for Small Business w/25 Employees
$6,307/year	$315.35/policy	$7,883.75/year

** The Henry J. Kaiser Family Foundation State Health Facts, 2014*

More than $5.6 billion in existing healthcare taxes already threatens affordability and has caused some New Yorkers to lose coverage. Many small business employers report that in recent years, they have had to increase costs for employee contributions or eliminate employee health care coverage completely because of these costs.

The proposed guaranty fund and tax will burden the small business community with higher costs and fail to protect consumers. For these reasons, we strongly oppose this legislation and urge its defeat.

FAIRNESS IN CONTRACTS

S.4173 (Nozzolio) / A. 7307 (Lupardo)

We, the organizations listed, represent thousands of businesses throughout New York State, and we ***SUPPORT*** this legislation to prohibit indemnity agreements in motor carrier contracts.

Simply, this legislation creates equity between common and private motor carrier, specifically with respect to contracts. Recently, it has become common practice for shippers to include contract language indemnifying the shipper against any liabilities or damage to the goods being shipped, regardless of fault.

The issue with this practice can be simply illustrated with the following two examples:

1. A shipper hires a carrier to deliver a truckload of housewares, including dishes and glasses. A pallet of these goods is dropped by a forklift operator in the shipper's warehouse, damaging some of the breakables inside, prior to loading the truck. The boxes are loaded onto a carrier's truck and transported to a retailer. The retailer rejects the load due to damage. Under current law, the indemnification clause by the shipper would automatically make the carrier responsible for all damage, regardless of fault or negligence by the shipper.

2. There is a refrigeration malfunction in a cold-storage facility owned and operated by a shipper. The shelf life of the produce stored there is greatly reduced as a result. The carrier hired to transport the food does so, keeping the refrigeration unit in the trailer functioning within the parameters set forth in the contract with the shipper. The produce spoils regardless and is rejected by the retailer. The carrier is then held responsible for the loss, not the shipper with the faulty cold-storage facility.

This "fairness in contracts" legislation will enable the responsible party to be held accountable for damages and liabilities. Limitations on litigation would not exist for either the shipper or the carrier. This legislation merely allows fault to be determined rather than the current practice of automatic liability on the carrier.

Tort issues have long hurt New York's economic potential and stifled companies' interest in doing business in the state. The overwhelming majority of states have enacted legislation that prevents overreaching indemnification provisions in shipper contracts, including our neighbors Pennsylvania, Connecticut and Massachusetts. Absent enacting this legislation, New York will once again be at a competitive disadvantage not only in the northeast but also across the nation.

New York has the one of the most litigious environments in the country and is regularly cited by the American Tort Reform Association as a "judicial hellhole." Legislation promoting equity, such as this bill, should be supported as a means to improving the state's reputation and providing assurance that there is a future for business in New York State.

For these reasons, we urge your support of this bill.