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### **New York State Senate Labor Hearing on Workers' Compensation**

*Testimony submitted by Ashley Ranslow, New York State Director for the National Federation of Independent Business (NFIB)*

NFIB is a member-driven organization representing over 11,000 small businesses across New York State.

NFIB members are the businesses that define our neighborhoods and strengthen our communities with character and value: local hardware stores, independent restaurants, florists, barbers, dry cleaners, convenience stores, farmers, roofers, builders, landscapers, mechanics, and fitness and retail boutiques.

There are close to 500,000 small businesses with employees in New York. These businesses employ 40 percent of the state's private-sector workforce, over 3 million New Yorkers, and their production accounts for nearly half of the state's GDP. A strong, vibrant small business eco-system supports local tax bases, governments, and schools. Sixty-seven cents of every dollar spent at a local small business is reinvested into the community.

It is well established that small businesses are local job creators and the bedrock of the state and regional economies. These neighborhood employers continue to face unprecedented financial challenges, including inflation, rising utility bills, unnecessarily high state Unemployment Insurance taxes, and an exodus of workers from the labor force. This follows a multi-year pandemic response where state government arbitrarily separated which livelihoods were "essential" from those that were dispensable, routinely allowing faceless corporations to continue operating while shutting down their independent-owned counterparts, penalizing the businesses that actually create sustainable local wealth and opportunity. After years of immense financial hardship,

these small businesses in your districts and hometowns should be valued and celebrated, and any changes to the workers' compensation system should be carefully contemplated and examined to ensure that premiums do not increase.

Employers, including small business owners, are responsible for 100 percent of the cost of workers' compensation premiums, which continue to increase year after year, even though New York's workers' compensation premiums are among the highest in the nation. In a 2022 report conducted by the state of Oregon, New York had the fourth highest index rate in the nation. According to the report, New York businesses pay \$2.15 per \$100 in payroll for workers' compensation coverage, which is 169% of the median. By contrast, Massachusetts' index rate is \$1.05 per \$100 in payroll and Oregon's index rate is \$0.93 per \$100 in payroll.<sup>1</sup> For contractors, including small contractors, the median annual cost of workers' compensation insurance in New York is \$4,799. The national median annual cost of workers' compensation for contractors is \$3,682 according to an analysis of Insureon applications.<sup>2</sup> These excessive costs beg the question, why are workers' compensation premiums so high in New York? This point demands the urgent attention and engagement of all stakeholders, including NFIB and small businesses.

One factor driving workers' compensation costs is fraudulent claims. There is widespread abuse, particularly in the construction industry, which is dramatically raising costs for small businesses. Recently, a racketeering case was brought, *Roosevelt Road Re, Ltd. Et al v. Hajjar et al*, which demonstrates the rampant fraud in New York's workers' compensation system. In this case, Roosevelt and Tradesman are looking to recover money fraudulently obtained through "systemic exploitation of the New York State Workers' Compensation system, via submission of bills and purported supporting documentation by physical or electronic mail pertaining to alleged workplace accidents and purported medical treatment thereafter..."<sup>3</sup> New York state regulators, law enforcement, and policy makers should prioritize cracking down on fraud to help contain costs and stabilize the insurance industry, particularly in construction. This legislative session, lawmakers should pass S.8413/A.8981-A, which establishes the crime of staging a construction site accident. This bill will help district attorneys bring down the sophisticated crime rings exploiting businesses and insurance companies. Combating fraud and waste within the workers' compensation system is imperative to help reign in costs and bring premiums down.

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<sup>1</sup> "2022 Workers' Compensation Premium Index Rates." Department of Consumer and Business Services, state of Oregon. [Department of Consumer and Business Services : 2022 Workers' compensation premium index rates : Workers' compensation cost : State of Oregon.](#)

<sup>2</sup> "General contractor insurance in New York." Insureon. [General Contractor Insurance in New York | Insureon.](#)

<sup>3</sup> "Consumers in Crisis. How New York's Hostile Liability Environment Inflates Insurance Costs and Fleeces Empire State Families." New York Civil Justice Institute, April 2024. [FINAL 4-23-2024 New York State Insurance Costs Report.pdf\(Review\) - Adobe cloud storage.](#)

Furthermore, New York continues to add additional cost burdens to the worker's compensation systems, including last year, when legislation increasing the minimum amount of compensation was signed into law. Lawmakers, business organizations, and labor worked together to agree upon and put in place sensible and balanced reforms in 2017. These efforts to reduce costs for employers, while providing necessary coverage to employees, represented an essential first step toward lowering the cost of doing business in New York. There continues to be a concerted effort to not only roll-back those reforms but to go even further, which will only exacerbate costs for Main Street. It would be catastrophic for New York to go backwards, and an emphasis must remain on cost control and cost reduction.

At a time when small businesses continue to struggle and search for a way to recover from the costly and devastating pandemic, New York should not pass any legislation that adds additional costs or burdens onto the workers' compensation system, while also cracking down on waste, fraud, and abuse. Legislation in direct conflict with any efforts to encourage small business growth and recovery in New York should be rejected. Instead, the Legislature should focus on ways to support small business and make the State more hospitable to the Main Street businesses that are essential to our economy and communities.

Thank you for the time and consideration.