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February 22, 2018

Commission on Fiscal Stability and Economic Growth  
Legislative Office Building  
Room 3700  
Hartford, CT 06106

### Re: Small Business Comments & Recommendations

Dear Chairmen Patricelli, Smith and Commission Members:

On behalf of the National Federation of Independent Business (NFIB), Connecticut's and the nation's leading small business association, thank you for the opportunity to provide input and comment on work of the Commission on Fiscal Stability and Economic Growth. NFIB commends the legislature for envisioning and creating your Commission through Public Act 17-2, but more significantly, NFIB wants to thank you for your service on the commission and commend you and your colleagues for the yeoman's work you have put in thus far. Moreover, NFIB would like to offer some comments and input on the Commission's work and matters of economic competitiveness and fiscal stability from a small business perspective. While further detailed throughout these comments, in sum, NFIB/Connecticut encourages and recommends the Commission to consider the following:

- **"Fiscal Stability" & "Economic Growth Reforms"**, per CBIA's recommendations (1/24/18), and "Solutions for Labor" & "Solutions for SERS", per Yankee Institute's recommendations (1/24/18), specifically including a fully defined contribution retirement system for all new state employees
- **Develop and implement a new pro small business "ethos" within state government**
- **Tax reforms, specifically including:**
  - o No more increases to the personal income tax and an eventual reduction in rates
  - o Repeal of the Business Entity Tax
  - o Repeal of the Estate Tax
- **Regulatory reforms, specifically including:**
  - o Allowing for waiver of fines and penalties upon remediation for unintentional first time regulatory violations; and *requiring* a first time penalty waiver for any paperwork or filing related regulatory offense



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- Creation of a “Regulatory Fairness” Ombudsman and/or Regulatory Fairness Board/Program, to be modeled after the United States Small Business Administration’s (SBA) “Reg Fair” program and services
- **Government Process reforms, specifically:**
  - Require a private sector economic impact analysis or fiscal note on legislation
  - Moratorium on anticompetitive labor & employment mandates
  - Budgeting developed based on anticipated revenues (as opposed to current practice), and/or explore the possibility of a joint “Ways & Means” type committee of the legislature to handle the budget

### **Background**

By way of background, founded in 1943, NFIB is Connecticut’s and the nation’s leading small business association. Here in *Connecticut*, *NFIB represents thousands of members and their employees. NFIB membership is scattered across the state and ranges from sophisticated high technology enterprises to “Main Street” small businesses to single-person “Mom & Pop” shops that operate in traditional ways.* Our member small businesses are engaged in all aspects of wholesale and retail commerce, professional services, construction, manufacturing and other core business sectors, including agriculture and restaurants. Since its early history, NFIB’s policy agenda has been determined through a one-vote balloting process of its membership. Notably, NFIB is the only major business organization whose policies and positions are established by the members directly, not by executive staff or the Board of Directors.

### **Overview**

#### **A New Pro Small Business Ethos For State Government**

It no news to Commission members that Connecticut is a high-cost state for employers with energy costs, development costs, unemployment insurance costs, regulatory compliance costs, health insurance premiums, and employee salary and benefit costs at or near the highest in the nation. These costs as well as the ever-looming possibilities tax increases to fund state government coffers are reflected in our state’s slow job growth over the past several years, particularly in the small business sector.

But beyond costs and economic conditions, small businesses face other difficulties in Connecticut as well. Some common refrains relate to the perception of the business climate in the state, and include things like the “attitude” of the legislature or the “adversarial



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nature” of regulators. In order to thrive, small business owners strongly desire a feeling that state government is on their side. And that ethos, that state government is on the side of small business, needs to be implemented and on full display, from the executive branch to the legislature and even carried down to local government units.

Our state needs to change the perception (and reality for many) and rise from the various “lists of lasts”, but this will not happen unless Connecticut stops being the first or among only a small handful of states to seriously consider certain legislative proposals or implement policies like mandated paid sick leave, a state run paid family & medical leave program, the suppression of employers’ free speech in union organizing drives and an overly aggressive escalation of the minimum wage. Advocates and adversaries can all argue until they are blue in the face as to whether these are valid initiatives or not, but the stark reality is that as a state, we often pay a dear price for implementing them, and there is no question that they prompt an adverse reaction from the business community both within and without the state. Connecticut needs a moratorium on such initiatives, or at the very least, a better vetting of the fiscal and economic impact of such initiatives on the private sector. Much like the legislature’s Office of Fiscal Analysis currently prepares a fiscal note to ascertain the “State” and “Municipal” fiscal impact on legislation, a similar “private sector” fiscal impact statement should be considered as well.

Part of the problem, from a small business perspective, is that small businesses feel they are often “stuck in the middle”. Small business owners feel that lawmakers focus only on the problems they and their immediate colleagues create for small business owners. For example, while Congress only looks at the federal tax structure; the state legislature looks only at Connecticut taxes; and municipal bodies only consider the local taxes that they impose. No one, except the small business owner who must pay all the taxes (or comply with all the mandates, or bear all the regulatory burdens), looks at the directed accumulation of these levies (or other factors) in the aggregate. Small business owners often view these problems as a whole and do not distinguish among the problem’s varying governmental sources.

The problem that seemingly no policymaker until recently has seemingly wanted to address is the long-term fiscal problems of state government. While huge state deficits are not directly a small business problem, the taxes required to fund government are, as are the programs those taxes pay for. Small business therefore has a huge stake state in fiscal policy. Doing nothing or returning to past troubling fiscal trends is not an option. The only course to success for all lies in a rational course of controls to fixed costs, reduced spending, and a strong focus on economic growth, both short-term and long-term. All of



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this of course will require difficult political decisions that many lawmakers heretofore have seemed hesitant to even discuss, let alone make.

### **Recommendations – Fiscal Stability Reforms, Tax Reforms, Regulatory Reforms & Government Process Reforms**

#### **Fiscal Stability Reforms**

NFIB/Connecticut agrees with many of the solutions and recommendations presented to the Commission thus far. Specifically, NFIB/Connecticut concurs with the recommendations for “Fiscal Stability” and “Economic Growth” presented by the Connecticut Business and Industry Association (CBIA) at your January 24, 2018 meeting, and also many of the “Solutions for Labor” and “Solutions for SERS” presented by the Yankee Institute for Public Policy, also at your January 24<sup>th</sup> meeting.

In a survey of NFIB/CT small business members, a strong majority showed support for moving state government employee pensions to fully defined contribution plans for new employees. All taxpayers in Connecticut, including small business owners and their employees, can no longer afford to pay for “Cadillac pension plans” for state government employees while most private citizens, including those who work in small businesses, are participating in defined contribution – 401K type plans. Connecticut’s plans, in particular, are underfunded and in economic distress because of various poor decisions that have been made by both labor and management over the years, but it is the small business owner and other taxpayers that are taxed to pay for these past mistakes. NFIB/CT therefore supports recommendations to move to defined contribution pension plans for new government employees so that our state’s eroding taxpayer dollars can best be used to meet other funding needs such as workforce education, economic development and transportation infrastructure, rather than continue to be used to prop up these unsustainable pension benefit plans.

Beyond those previous areas and recommendations for fiscal stability, however, NFIB/Connecticut also would like to emphasize some areas of tax policy and regulatory reforms that must be focused on as well.



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### Tax Policy & Reforms

#### **Personal Income Tax**

First and foremost, state tax policy should be focused on creating opportunities for growth in the private sector, and particularly in the small business sector. This should be done by creating a tax climate that is both competitive and allows primarily for organic growth in response to market forces and economic conditions. Any recommendations for tax reform, from a small business perspective, needs to focus on the personal income tax, above all else.

In the August 2016 edition of "Small Business Problems & Priorities" by the NFIB Research Foundation, "State Taxes on Business Income," moved up one position in the ranking from tenth to ninth with roughly the same percent finding it critical, from 24 percent in 2012 to 23 percent. Profits are the major source of capital to finance the growth of small businesses, directly or by supporting the acquisition of long-term capital loans. Taxes, including income taxes on pass through entities, directly confiscate this capital before it can ever be put to work producing output and jobs.

Unfortunately, when it comes to the personal income tax, there are two aspects of the issue that are far too often overlooked: First, the increasing application of the individual income tax, as opposed to corporate taxes, as a "business" tax and the resulting impact on the state economy; and, secondly, the stark contrast between the state's substantial financial assistance to certain targeted economic sectors and large businesses and the attention paid to the widely dispersed, but long-standing domestic small business sector that provides jobs for a majority of the state's workers.

The vast majority of small businesses are organized as pass-through entities, which pay tax on business income at the individual tax rates, and not at the corporate tax rate. Such entities include any company organized as a sole proprietorship, partnership, LLC, or S-Corporation and the like. A high tax burden facing small businesses holds back investments, growth, hiring, and entrepreneurship. One in five small businesses struggles with cash-flow, which is needed to not only run their businesses but also support their families. Specifically, after-tax income is an especially important source of capital for small businesses. High tax rates mean less money that small business owners have to reinvest back into their business.

The state income tax rate has become an increasingly significant part of small business' cost of doing business in Connecticut. An increasing majority of small and independent businesses are paying their business taxes just like individuals due to the growth in sole



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proprietorships, partnerships and Subchapter S corporations. As more small and independent businesses pay individual income taxes, fewer state revenue dollars are derived from the corporate taxes. The Connecticut personal income tax rate thus has far a greater impact on job growth and other macro-economic factors, particularly in the critical small business sector. Reduction in the rate will spur new job growth among the state's job creators, while an increase in the rate will only further stagnate our state's economy.

### **Business Entity Tax**

NFIB/Connecticut strongly supports full repeal of the Business Entity Tax ("BET"). The Business Entity Tax started following a special session in 2002 as a "temporary" \$250 annual tax on small businesses simply for their existence in the state of Connecticut, whether profitable or not, to help defray budget deficits at the time. It was intended to be "sunset", recognizing that it was nothing more than a nuisance tax, and an affront to Connecticut's small businesses. The BET is levied on top of the numerous other taxes and fees that small businesses must pay in this state, including costs associated with state and local permits and licenses related to the business, sales taxes for goods and services, property taxes and personal income taxes - taxes and fees that are considerably higher than most other states. While some might be dismissive of the BET as being "nominal", to most small business owners - who operate on very thin profit margins - an extra \$250 back in their pocket would be more than welcome and is useful. For a small business, it could pay for a monthly utility bill, fund some advertising or marketing, or purchase a new printer or piece of office equipment, etc. Beyond the cost savings, fully repealing the BET would be notable for the message that it sends to small business in Connecticut and outside our state as well.

### **Estate Tax**

From a competitiveness perspective alone, Connecticut's estate tax stands out as one of many disadvantages for certain small business owners in this state. Connecticut's estate tax provides no incentive for certain small and family-owned businesses to expand their business or create new jobs. In fact, it taxes the family right out of business in many cases. And in other cases, the mere threat of this tax actually forces small business owners to pay for expensive estate planning if they want to keep their business in their family. Repeal of the state estate tax could help with succession planning for many of Connecticut's closely held small and family businesses and farms. For many small businesses, the value of the estate is the physical assets of the business, which means to pay the estate tax they often have to sell actual parts of the business. Or in other cases, as is often the case with regard



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to farming, the value of the estate is also tied to land. In a state with high land costs like Connecticut, this can certainly be the case for family farms and small agri-businesses.

### **Regulatory Environment & Reforms**

#### **Waiver For First Time Regulatory Violations**

Overzealous regulation is a perennial cause of concern for small business owners. In the 2016 edition of “Small Business Problems & Priorities” by the NFIB Research Foundation (published August, 2016), “Unreasonable Government Regulations” ranked as the 2<sup>nd</sup> greatest problem of concern from small business owners (surpassed only by “Cost of Health Insurance”), and up from its previous position of 5<sup>th</sup> in 2012, with over a third of small business owners deeming this problem as “critical”. Much like taxes, this generic problem category costs small businesses in several ways: understanding and keeping up-to-date with compliance requirements, costs of consultants, employee time, management time, direct outlays, lost productivity and/or sales, forgone opportunities, etc. The federal government alone proposes approximately 150 new rules every year that cost business owners over \$100 million per rule in compliance costs. Adding state and local laws and regulations that sometimes duplicate federal regulations, merely raise the cost and frustration level for small business. The sheer volume and complexity of this regulatory onslaught for small businesses means that, on occasion, without any ill intent, something may slip through the cracks and a business owner may inadvertently not comply with a regulatory or even a paperwork filing requirement. These instances by otherwise law-abiding small business owner should not be penalized, and therefore it makes sense for regulatory reform solutions to move forward that would allow for a waiver of penalties or fines for first time inadvertent regulatory violations that are remediated by the small business owner. This concept was embodied in legislation recently considered by the Connecticut General Assembly, most recently, House Bill 5087 and Senate Bill 818, both of the 2017 legislative session. Further, such a waiver concept should be required in instances of first time violations related to paperwork or filing requirements. Such “waiver” policies will go a long way toward ensuring a better regulatory environment and a better working relationship between state agencies and small businesses in Connecticut, the majority of whom want to do the “right thing” and quickly remediate any inadvertent noncompliance. Adoption of these policies can help move towards creating some much needed regulatory relief for small businesses and will certainly help foster a more business-friendly reputation for the state of Connecticut and its administrative agencies.



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### **Regulatory Fairness Ombudsman / Program**

One additional suggestion NFIB/Connecticut would like to make to the Commission regarding the overall issue of regulatory reform is the need for a small business regulatory fairness “Ombudsman” and/or Board in Connecticut. The concept is modeled after an existing program by the United States Small Business Administration and is quite simple: Small business owners serve on a volunteer board that deals with matters of regulatory fairness, particularly when it comes to compliance or agency enforcement matters. Most importantly, these small business owners act as the “eyes and ears” of the regulated community, and as such the Regulatory Fairness Boards can hold hearings or roundtable events to receive input from the small business community or discuss specific regulatory matters of importance. The Board also can act as a liaison between the small business community and specific agencies on regulatory matters with a goal of establishing a more reasonable, balanced and fair approach to enforcement, particularly when it comes to issues of excessive fines.

According to the United States Small Business Administration’s Office of Advocacy, “Giving small employers a voice early in the [regulatory] process is key to reducing the negative impact of regulations on small businesses, increasing the level of regulatory compliance, and passing on cost savings to state economies.” That is why the development of regulatory review boards is vital, particularly in today’s challenging economy.

Currently, several states (Hawaii, Maine, Missouri, Oklahoma, and Wisconsin, to name a few) and the federal government have regulatory review boards that, among other things, hear the concerns and issues of small businesses and advocate on their behalf in the legislative/regulatory process. Additionally, four states (Arizona, Colorado, Kentucky, and Rhode Island) have regulatory review *programs* with similar goals. At the federal level, a very successful regulatory fairness board(s) is currently administered through the Office of the National Ombudsman of the U.S. Small Business Administration.

### **Government Budgeting & Process Reforms**

#### **State Budgeting Decisions Based On Actual Revenue – Explore “Ways & Means”**

Process improvements are sorely needed, specifically with regard to state budget development/implementation. This can also help with transparency in the budgeting process (currently lacking), which in turn will help lead to certainty – something that small business is desperately craving. The budget development/adoption process within the legislature needs to be more open, transparent, and subject to public input. Furthermore,





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the mechanics of the process need to be examined and reversed. The state needs to budget (spend) based on revenue, not the way it is currently done where spending is determined by the Appropriations Committee and then the Finance Committee figures out how to pay for it. Reverse that order and develop a budget just as households and small businesses make their budget based on income/revenue. Additionally, having a “Ways & Means” type committee of the legislature to handle the budgeting process should also be explored. Finally, state budgeting should be based on/confined to real metrics, e.g. state GDP over a period of time. While ratings agencies and bondholders yield some external pressure, the state needs to be held accountable -- to a similar standard to private business. What would happen on audit of a small business if their numbers were not solid or accurate?

### **Private Sector Economic Impact Analyses / Fiscal Notes For Legislation**

NFIB/Connecticut also strongly supports private sector economic impacts analyses to be required for legislation, similar to the current “fiscal notes” assessing state and municipal financial impact of legislation. Helping the legislature determine the impact of legislation on businesses and thus employment in Connecticut by developing and requiring the consideration of such private sector economic impact analyses will help shine a spotlight on Connecticut’s legislative processes and more importantly, result in a better understanding and full analysis of the impact legislative policymaking will have on private businesses in Connecticut, just as is currently done for the state and municipalities. Unfortunately, Connecticut has witnessed a record number of job losses and businesses closing their doors over the last several years. While this can be attributed to a variety of economic woes, certainly state legislation can have an impact on or correlation to these declines. The aforementioned proposal will hopefully go a long way to providing for a “preventative look” or comprehensive analyses of the projected impact proposed legislation will have on a small business *before* it is enacted.

This is a common sense approach that not only provides for additional transparency in the legislative process, but can also ultimately result in better drafted and administered legislation. Small business owners routinely utilize metrics, examine potential return on investments and perform cost-benefit analyses when making business decisions; it only makes sense that proposed legislation is subject to similar analyses vis-à-vis the private sector impact. When NFIB/Connecticut members were recently surveyed regarding a requirement for business impact statements for state legislation, approximately 77% of the responding small business owners favored such an approach, with only 15% in opposition and a remainder undecided. Additionally, NFIB/Connecticut suggests that such private sector business impact statements, should, where/when possible, include a breakdown of the business/employment/economic impact specifically on the small business sector, depending on how precisely this is defined. Too often, laws and regulations are passed



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without regard for their impact on Connecticut's business climate and employees, but fortunately private sector economic impact statements can help provide additional, relevant and useful information to lawmakers in the course of their deliberations, as well as hopefully ultimately result in a moratorium on new anticompetitive legislative measures, specifically in the realm of labor and employment mandates on private business.

### Conclusion

NFIB again applauds the Commission for its dedication and work to date. In addition to the above-mentioned recommendations, NFIB also wants to emphasize that the state should look toward small business for solutions. While admittedly easier said than done, small business owners would encourage the state to operate as small business does; hope for the best but plan for the worst; budget conservatively; estimate conservatively; build in reserves; have a contingency plan; innovate and survive to ride out downturns just as small business has had to do; chart a growth plan; then, and only then, can the state begin to move forward.

Undoubtedly, this Commission is faced with many challenges but also many opportunities to improve Connecticut's economic climate and create an environment where small businesses can compete, grow and thrive. Please let us know if we can assist the Commission in any way as your work moves forward. NFIB/Connecticut and its members stand ready to work with the Commission and the legislature to address the state's fiscal and competitiveness issues without hindering economic development and the growth and vitality of the Connecticut's small businesses.

On behalf of NFIB in Connecticut, thank you again for your time, attention and work on to these critical issues.

Sincerely,

Andy Markowski  
State Director  
NFIB/Connecticut