



SENATE BILL 18 – TAX CONFORMITY

PROPONENT TESTIMONY

OHIO SENATE WAYS & MEANS COMMITTEE

FEBRUARY 9, 2021

Chair Blessing, Vice-Chair Roegner, Ranking-Member Williams, and members of the Ohio Senate Ways & Means Committee, my name is Chris Ferruso, and I am the Legislative Director for Ohio NFIB. I am here on behalf of our nearly 21,000 governing members to lend support for Senate Bill 18. Senate Bill 18 conforms Ohio's tax law to changes in federal tax law since March 27, 2020. Senate Bill 18 also includes an amendment accepted last week to ensure the second round of Paycheck Protection Program Loans (PPP) are not subjected to Commercial Activity Tax (CAT).

By way of background, a typical NFIB member in Ohio employs 20 or fewer and does less than \$2 million in annual receipts. Our members come from all industry types and each of the 88 counties. Our members range in size from sole proprietors to large operations employing hundreds.

The COVID pandemic has caused a substantial financial impact on so many small businesses. We are grateful the General Assembly and Governor DeWine's administration recognize the struggles our members continue to face. Some of the steps taken provided financial and regulatory relief including excluding the first round of PPP from CAT, extending deadlines for tax payments and licensure renewal, preventing unemployment claims directly impacting individual employer experience, returning Bureau of Workers' Compensation (BWC) premiums to employers, and a host of others.

To truly understand what our Ohio members were experiencing, we surveyed them in the late third quarter of 2020, posing a series of pandemic-related questions. I

want to share with you some of the responses. I believe it helps set the table on how small businesses were impacted and unfortunately, continue to struggle.

- 77 percent of our members had taken the first PPP loan
- 88 percent had used the entirety of that PPP loan
- 70 percent of our members indicated they would utilize a state program for small businesses to be reimbursed for expenses not covered (supported the Small Business Grant Program)
- 72% of our members indicated a need between \$10,000 - \$100,000
- 55% of our member indicated revenue losses of at least 20% year over year

I provide this to you to express how important Senate Bill 18 is to ensure federal conformity. There was much confusion surrounding the first round of PPP loans and their deductibility. At the onset, it was believed they would be deductible. However, after enactment, the IRS indicated the PPP loans would not be deductible. Fortunately, Congress clarified their original intent and preserved this critical policy for small businesses. Our members need the certainty that as they are preparing their tax returns, Ohio law will not treat these loans differently. Keeping resources in our small businesses is crucial to their ongoing viability.

I want to return to the BWC issue I mentioned earlier. We applaud the BWC and administration for returning roughly \$8 billion to state-fund employers in 2020. This much needed cash infusion has played a significant role in helping our members. An issue has arisen on these dollars as for the first time 1099s were issued. As it currently stands, the Ohio Department of Taxation has indicated because there is no statutory exclusion in Ohio Revised Code, the funds are to be included in the definition of gross receipts and thus subjected to CAT. Based upon conversations we have had with Taxation and the administration; it appears this was never the intent. We implore this committee to act and adopt an amendment similar to the one adopted last week, and exempt BWC payments from CAT and provide this certainty to employers.

Chair Blessing, Vice-Chair Roegner, Ranking-Member Williams, and members of the committee, thank you for the opportunity to provide testimony on Senate Bill 18. I would be happy to try and address any questions the committee may have.