TESTIMONY BEFORE THE UNITED STATES CONGRESS
ON BEHALF OF THE

NATIONAL FEDERATION OF INDEPENDENT BUSINESS

NFIB™

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United States House of Representatives
Committee on Education and Workforce
Subcommittee on Workforce Protections

Less Red Tape, More Opportunity: Unleashing American Workers and Job Creators

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National Federation of Independent Business
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Chairman Mackenzie, Ranking Member Omar, and members of the Subcommittee on Workforce Protections,

On behalf of the National Federation of Independent Business (NFIB), I appreciate the opportunity to participate in today's hearing on reducing red tape and compliance burdens on small businesses.

NFIB is the nation's leading small business advocacy organization, advocating on behalf of nearly 300,000 small businesses in Washington, DC, 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.

Small businesses – like the average NFIB member with 8 employees - employ nearly half of this country's workforce and represent 99.9% of all American businesses.[1] From January 1995 to December 2024, small businesses created 20.7 million net new jobs, while large businesses created 13.2 million.[2] Overall, small businesses have accounted for over 61% of net new job creation since 1995.[3] It is no exaggeration to say that for the American economy and the American worker to be successful, small businesses must succeed.

But success in a small business doesn't come easy. NFIB's members face rising labor costs, inflation, worker shortages, and increasing regulatory requirements from federal and state authorities.[4] For many small employers, the challenge is no longer simply finding customers. It's finding workers, keeping the doors open, and staying compliant with an ever-expanding web of regulations.

Unfortunately, public policy tends to add to the burden rather than ease it. Too often, government decisions made in state capitals and in Washington, D.C., worsen the problems, making it harder to run a small business. Over the past two decades, D.C.

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[1] *Frequently Asked Questions*, Office of Advocacy, Small Business Administration (Feb 2026), https://advocacy.sba.gov/wp-content/uploads/2026/02/FINAL_FAQsAboutSmallBusiness_2026_012826.pdf
[2] *Id.* at 2.
[3] *Id.* at 6.
[4] See William C. Dunkelberg, Holly Wade & Peter Hansen, Nat'l Fed'n of Indep. Bus. Rsch. Ctr., *Small Business Economic Trends* (July 2026).

bureaucrats have issued an unprecedented number of regulations on the private sector. Between 2005 and 2024, federal agencies finalized nearly 7,000 regulations, costing the private sector an estimated $3 trillion and generating more than 1.4 billion hours of paperwork.[5] This regulatory red tape imposes compliance costs that disproportionately impact small businesses, many of which lack dedicated compliance officers, human resources teams, or in-house legal counsel.[6] In the end, small business owners shoulder the burden of this $3 trillion expense. These added responsibilities divert time away from managing the business, serving customers, and going the extra mile for employees. They also pull resources from employee raises, bonuses, growth opportunities, and community engagement.

Small business owners want the freedom to spend their time serving customers, hiring workers, and growing their businesses rather than navigating regulatory requirements. Congress and the Administration can help by reducing compliance burdens, avoiding costly new employer mandates, and creating a more predictable regulatory environment that encourages hiring and investment.

Cutting red tape and protecting workers are not competing goals. Small business owners work side by side with their employees, and safety is personal. Small businesses need clear, workable rules written with an eight-employee business in mind, not a Fortune 500 compliance department. Simpler rules lead to better compliance, which in turn creates safer workplaces.

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[5] *Regulation Rodeo*, American Action Forum (August 24, 2026), regrodeo.com/?year=2005%2C2006%2C2007%2C2008%2C2009%2C2010%2C2011%2C2012%2C2013%2C2014%2C2015%2C2016%2C2017%2C2018%2C2019%2C2020%2C2021%2C2022%2C2023%2C2024%2C2025.

[6] Academic research and government studies have consistently shown that smaller firms bear a disproportionate share of compliance costs, largely due to their lack of specialized legal, human resources, and compliance personnel. *See* W. Mark Crain, *The Impact of Regulatory Costs on Small Firms* (U.S. Small Bus. Admin., Off. of Advocacy 2005) and Joseph J. Cordes, Susan E. Dudley & Layvon Q. Washington, *Regulatory Compliance Burdens: Literature Review and Synthesis* (George Wash. Univ. Regulatory Stud. Ctr. 2022).

2021 to 2024: A Historically Challenging Period for Small Businesses and a Tipping Point

Of the $3 trillion in new regulatory costs added over the past two decades, $1.8 trillion was added from 2021 to 2024. The Department of Labor was a significant source of additional costs and paperwork for small businesses. It finalized and proposed numerous regulations that heightened the complexity of labor and employment laws, thereby increasing the burden on small businesses and their employees.[7]

For instance, the Department's 2024 Independent Contractor Final Rule[8] introduced unnecessary complication into the worker classification process by establishing a strict, multifaceted test for distinguishing independent contractors from employees. This significantly restricted small business owners' ability to hire independent contractors. The rule not only adversely affected small businesses that rely on independent contractors for specific, non-regular tasks but also harmed independent contractors themselves—who are often small business owners—by undermining their business models and forcing them into unwanted employment agreements.

The Occupational Safety and Health Administration (OSHA), under the Department's authority, finalized its 2024 Worker Walkaround Final Rule,[9] which threatens the integrity of routine safety inspections by allowing union representatives to accompany OSHA inspectors during investigations, even in non-unionized workplaces. Ostensibly aimed at workplace safety, the rule enables biased third parties to distract inspectors and pursue their own agendas instead of ensuring safe and healthy workplaces.

Additionally, OSHA proposed what may be one of the most burdensome regulations from the previous administration: the Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings Proposed Rule,[10] often referred to as the Heat Standard. This proposed rule would establish new, often unmanageable, one-size-fits-all

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[7] Of the more than $1.8 trillion in estimated regulatory costs imposed across the federal government during the Biden administration, approximately $19.3 billion was attributable to Department of Labor rulemaking. Dan Goldbeck, *The Biden Regulatory Record* (Am. Action Forum Jan. 29, 2025), https://www.americanactionforum.org/insight/the-biden-regulatory-record/.

[8] Employee or Independent Contractor Classification Under the Fair Labor Standards Act, 89 Fed. Reg. 1,638 (Jan. 10, 2024).

[9] Worker Walkaround Representative Designation Process, 89 Fed. Reg. 22,558 (Apr. 1, 2024).

[10] Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings, 89 Fed. Reg. 70,698, 70,745 (proposed Aug. 30, 2024).

mandates. It would require nearly all small employers nationwide to navigate complex paperwork, training, and recordkeeping requirements, provide a paid 15-minute break every two hours, and enforce active supervision regardless of industry or whether work occurs indoors or outdoors. Additionally, the rule sets arbitrary "high heat" thresholds at 80 and 90 degrees Fahrenheit—temperatures that many regions experience for substantial parts of the year.

Beyond the Department of Labor's scope, the Biden Administration imposed numerous burdensome regulations affecting all sectors of the economy. Among them, one of the most invasive small business regulations originated from the U.S. Treasury Department's Financial Crimes Enforcement Network (FinCEN). FinCEN's 2022 Beneficial Ownership Information (BOI) Reporting Rule[11] required 32.6 million law-abiding American small business owners and anyone with "substantial control" of the business to register their personal information with the federal government. Failure to comply could result in fines of up to $10,000 and imprisonment for up to two years.

In 2023, the National Labor Relations Board (NLRB) finalized a regulation that was both unworkable and burdensome, threatening independent franchisees' control over their workforce by permitting workers to collectively bargain with a national franchisor.[12] This joint employment rule would have effectively required independent franchisees to act as managers bound by collective bargaining agreements they neither negotiated nor approved. It could also have jeopardized small businesses that hire contractors by classifying them as joint employers and holding them liable for contractors' labor law violations. Fortunately, a district court invalidated the rule, offering relief to small businesses.[13]

Delivering Relief to Main Street: How Congress, the Administration, and the Committee Are Promoting Certainty and Reducing Regulatory Burdens for Small Businesses

By the end of 2024, small businesses faced a perilous economic environment. This instability demanded prompt action from Congress and the Trump administration. Both responded quickly, offering relief to small businesses by rolling back many of the

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[11] Beneficial Ownership Information Reporting Requirements, 87 Fed. Reg. 59,498 (Sept. 30, 2022) (codified at 31 C.F.R. § 1010.380).

[12] *See* Standard for Determining Joint Employer Status, 88 Fed. Reg. 73,946 (Oct. 27, 2023) (vacated by *Chamber of Commerce v. NLRB*, 723 F. Supp. 3d 498 (E.D. Tex. 2024)).

[13] *Chamber of Commerce,* 723 F. Supp. at 518.

burdensome regulations enacted during the Biden Administration and ensuring tax certainty.

Last year, Congress and the administration enacted the Working Families Tax Cuts (WFTC),[14] which included numerous provisions beneficial to small businesses and their employees, most importantly making the 20% Small Business Deduction permanent. By passing the WFTC, Congress averted a massive tax hike on over 33 million small businesses. The legislation gave Main Street employers the certainty needed to reinvest in operations, expand hiring, and improve employee compensation.

More recently, the Trump Administration finalized its exemption of U.S. businesses from the invasive BOI reporting requirement and has committed to destroying BOI data for U.S. businesses that have already filed their BOI but are no longer required to do so.[15] By exempting U.S. businesses from BOI, the administration has saved small businesses $128.6 billion in compliance costs and protected their privacy from government intrusion.[16]

In addition to these two major wins for small businesses, Congress has also passed Congressional Review Act (CRA) resolutions that permanently eliminate onerous regulations and help reduce energy costs.[17] These CRAs offered lasting relief to small businesses, their employees, and everyday Americans.

On workforce issues, the administration and the House Education and the Workforce Committee have also responded. In the past year and a half, the Department of Labor has rolled back burdensome regulations affecting independent contractors and franchisees or simplified otherwise complex regulatory requirements for small business owners. The Committee has also taken steps to provide relief and certainty for small businesses by passing legislation to prevent future onerous mandates and codify simplified, flexible labor and employment regulations.

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[14] Working Families Tax Cuts, Pub. L. No. 119-21 (2025).

[15] Beneficial Ownership Information Reporting Requirement Revision, 91 Fed. Reg. 52,508 (Aug. 14, 2026) (to be codified at 31 C.F.R. pt. 1010).

[16] *White House Office of Management and Budget's Office of Information and Regulatory Affairs Releases End of Year Deregulatory Stats: Showing the Trump Administration Has Best Deregulation Year in History*, The White House, December 19, 2025, https://www.whitehouse.gov/briefings-statements/2025/12/32750/.

[17] Sarah Hay, *Congress Reviewed: The 119th Congress's Use of the Congressional Review Act* (George Washington Univ. Regulatory Studies Ctr., Aug. 20, 2025).

In May 2025, the Department of Labor announced it would suspend enforcement of the Biden Administration's 2024 Independent Contractor Final Rule.[18] In February 2026, it proposed an updated rule that would reinstate a more straightforward classification test and align various federal standards under this simplified framework.[19] The 2026 proposal marks significant progress, streamlining a complex process for small businesses and enabling them to better utilize independent contractors. The Committee has also taken steps to simplify the independent contractor classification process for small businesses by passing H.R. 1319 the *Modern Worker Empowerment Act*. This important legislation would codify the simplified independent contractor test the Department implemented in 2021, which is now being proposed again in 2026, and harmonize the independent contractor standards under the Fair Labor Standards Act and the National Labor Relations Act.

Additionally, in April 2026, the Department of Labor proposed harmonizing differing joint employer standards across federal employment law.[20] The 2026 proposal would establish a single, simple federal joint employer standard, ensuring small businesses have the clarity needed to comply while avoiding the risk of having their businesses stripped out from under them by an unworkable federal regulation. This Committee has also taken steps to protect small businesses from another disastrous joint employer rule, like the one we saw under the Biden Administration, by passing both H.R. 4366, the Save Local Business Act, and H.R. 5267, the American Franchise Act.

Under the Trump Administration, the Department of Labor has made significant efforts to promote compliance support and help small businesses follow federal labor and employment regulations while avoiding penalties for honest mistakes. First, the Wage and Hour Division reinstated the Payroll Audit Independent Determination (PAID)[21] Program, which allows employers to swiftly resolve potential minimum wage and

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[18] U.S. Dep't of Labor, U.S. Department of Labor Issues Guidance on Independent Contractor Misclassification Enforcement (May 1, 2025), https://www.dol.gov/newsroom/releases/whd/whd20250501 (announcing that while the Department reviews the 2024 Independent Contractor Final Rule, Wage and Hour Division investigators are directed not to apply the 2024 rule's analysis in current enforcement matters).

[19] Employee or Independent Contractor Status Under the Fair Labor Standards Act, Family and Medical Leave Act, and Migrant and Seasonal Agricultural Worker Protection Act, 91 Fed. Reg. 9,932 (proposed Feb. 27, 2026).

[20] Joint Employer Status Under the Fair Labor Standards Act, Family and Medical Leave Act, and Migrant and Seasonal Agricultural Worker Protection Act, 91 Fed. Reg. 21,878 (proposed Apr. 23, 2026).

[21] *See* Payroll Audit Independent Determination (PAID) program, https://www.dol.gov/agencies/whd/paid.

overtime violations through self-reporting and ensuring affected employees are compensated, avoiding costly litigation or penalties. Second, OSHA reinstated the Voluntary Protection Programs (VPP),[22] enhancing collaboration between employers and OSHA to promote healthy, safe workplaces. Under VPP, employers can undergo an on-site OSHA evaluation; if they demonstrate sustained safety excellence, they are removed from OSHA's routine inspection list, reducing administrative burdens for small businesses and enabling OSHA to focus resources more effectively.[23]

Recently, the Committee took a significant step by passing Representative Messmer's legislation, H.R. 6213, the Heat Workforce Standards Act, which addresses small-business concerns. This bill aims to protect small businesses from a new regulation by blocking the Biden Administration's proposed OSHA Heat Standard from being finalized and preventing future administrations from establishing a federal heat standard. Small businesses appreciate the Committee's efforts to halt these proposed mandates and paperwork requirements and urge the House to prioritize H.R. 6213.

More Work Needs to Be Done; Congress Needs to Eliminate Threats and Provide Permanent Relief

NFIB commends the Trump Administration, Congress, and this Committee for delivering much-needed relief to small business owners and reversing many onerous Biden Administration regulations. While these actions mark important progress, further reforms are necessary to fully address the challenges facing Main Street businesses.

The Department of Labor should finalize its Independent Contractor and Joint Employer proposed rules, and Congress should codify them to provide long-term certainty for small businesses and prevent future burdensome regulations.

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[22] *See* Voluntary Protection Programs, Occupational Safety and Health Administration, U.S. Department of Labor, https://www.osha.gov/vpp. VPP is authorized by section (2)(b)(1) of the OSH Act, which declares the Congress's intent "to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources (1) by encouraging employers and employees in their efforts to reduce the number of occupational safety and health hazards at their places of employment, and to stimulate employers and employees to institute new and to perfect existing programs for providing safe and healthful working conditions ." 29 U.S.C. § 651(b)(1).
[23] *See* Voluntary Protection Programs at https://www.osha.gov/vpp.

Before the end of the year, Congress should permanently shield small businesses from the invasive BOI registry by passing H.R. 425 to repeal the Corporate Transparency Act[24] or codifying the U.S. business exemption finalized by the Trump Administration. Without congressional action, 32 million businesses nationwide could again face this unconstitutional and intrusive mandate, exposing them to significant fines and up to two years in federal prison.

Congress can also offer additional relief to small businesses by raising the Small Business Deduction from 20% to 23% (H.R. 8415) and by enacting healthcare reforms that deliver more affordable and flexible options for small businesses and their employees. These reforms would enhance small businesses' competitiveness against larger rivals and foster growth opportunities on Main Street.

Additionally, the most crucial action Congress and the Trump Administration can take is to block the Biden Administration's proposed Heat Standard. This proposal ignores existing requirements under the General Duty Clause[25] and the efforts small businesses are making to protect their employees. It could also impose new mandates requiring small businesses to hire at least one full-time employee for compliance purposes, potentially leading to closures or sales to larger competitors.

Small businesses overwhelmingly oppose establishing a nationwide heat standard.[26] In fact, ***NFIB has gathered the signatures of over 10,000 small business owners petitioning Congress and the administration to protect small businesses by rejecting the establishment of any Heat Standard.*** Unfortunately, the threat of this massive new regulation still looms over small businesses. Congress can proactively prevent this massive new regulation from being finalized by enacting H.R. 6213.

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[24] 31 U.S.C. § 5336 (2025).

[25] The General Duty Clause in Section 5(a)(1) of the Occupational Safety and Health Act requires employers to provide a workplace free from recognized hazards that are causing or likely to cause death or serious physical harm, 29 U.S.C. § 654(a)(1). "This includes heat-related hazards that are likely to cause death or serious bodily harm." https://www.osha.gov/heat-exposure/standards.

[26] NFIB 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%).

Conclusion

The past 19 months have brought important victories for America's small businesses through the efforts of Congress and the Trump Administration. Yet more work remains. By continuing to reduce regulatory burdens, limiting unnecessary government interference, and providing greater certainty, policymakers in Washington, D.C., can create an environment where Main Street businesses can expand, prosper, and succeed.