## NFIB Federal Lobbying Update

**Latest Proposals and Timeline** 



## Agenda

- State of Play & Latest Timeline
- Policy Update
  - Bipartisan Infrastructure bill v. Build Back Better Act
  - House v. Senate
- Current Political Dynamic
  - o Progressives v. Moderates
- NFIB Advocacy
- Q&A



## State of Play

- November 2 Election Day in Virginia and New Jersey
- November 5 House passed bipartisan infrastructure bill (Infrastructure Investment and Jobs Act)
- November 6 House passed procedural vote for reconciliation bill (Build Back Better Act)
- November 8–15 (weeks) Congressional Budget Office estimates
- November 18–19 House vote expected
- December 3 government funding deadline, debt limit x-date?





# NFIB

### Bipartisan Infrastructure Bill

- Passed Senate on August 10, 2021 (69-30)
- Passed House on November 5, 2021 (228-206)
- Signed into law next week (expected)
- Shortens duration of Employee Retention Tax Credit (ERTC)
  - Originally scheduled to expire December 31, 2021
  - Now expired on September 30, 2021 (disallowed ERTC for 4<sup>th</sup> quarter)



### Original House Build Back Better - Tax

- Limits Small Business Deduction \$500,000\*
- Increases top individual rate 37% -> 39.6%
- Lowers top rate threshold \$628,301  $\rightarrow$  450,001
- Imposes 3.8% surtax on active business income >\$500,000\*
- Imposes 3% surtax on income >\$5 m\*
- Restores graduated corporate tax rate\*
- Increases the top capital gains tax rate from 20% to 25%\* o Plus 3.8% surtax >\$500,000 (28.8%)\*

  - Plus 3% surtax >\$5 m (31.8%)\*
- Accelerates sunset of estate tax thresholds
  - Exemption would be reduced from \$11.7 m to ~\$6 m



\* not indexed for inflation

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- Creates Paid Family & Medical Leave Program
  - Applies to all businesses and all employees
  - Allows up to 12 weeks of leave/year
  - Administered and paid by Treasury Department
  - Partial employer reimbursement
  - Employees self-attest they provided employers 7 days notice
- Mandates "Automatic Contribution Plans or Arrangements" ("ACPAs")
  - Applies to businesses with >5 employees and certain employees
  - Requires withholding 6%-10% of employees' earnings
  - Not required to contribute
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### New House Build Back Better

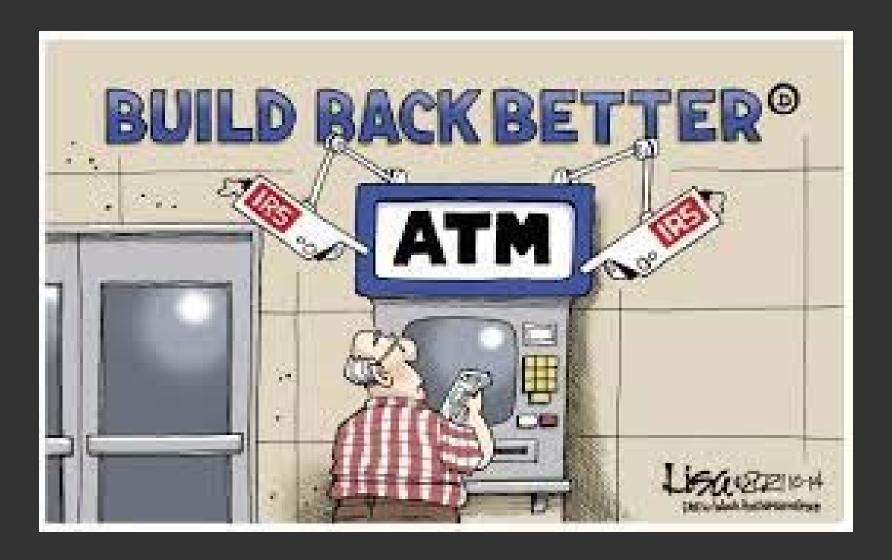
- "Small Business Surtax" Imposes 3.8% surtax on active business income >\$500,000\*
  - Lower threshold for businesses held in trusts >\$13,000\*
- Imposes 5% surtax on business income > \$10 m\*
- Imposes 3% surtax on business income > \$25 m\*
- Creates Paid Family & Medical Leave Program
  - Requires up to 4 weeks of leave/year
- Increases penalties & penalty exposure
  - o FLSA, OSHA, NLRA
  - Expands ACA employer mandate "affordability" 9.5% → 8.5%



## Senate will make changes

- Restore any of the tax increases or add new tax increases?
  - Institute "mark-to-market" for billionaires
  - Eliminate stepped-up basis
- Increase IRS enforcement by allowing access to banking information?
- Eliminate paid family and medical leave mandate?





### NFIB

### **Current Political Dynamic**

- Virginia and New Jersey elections shades of 2009
  - o Democratic Leadership doubling down and plowing ahead
- Distrust between House and Senate
  - Progressives v. Blue Dogs / Sens. Manchin & Sinema
- Distrust between progressives and moderates
  - Hostage has been released (infrastructure bill)
- Potential disruptions
  - Disagreement over top line \$1.75-\$2.T (House) v. \$1.5 T
    (Senate)
  - Bad CBO score



# NFIB Advocacy

- FGR / SGR / Grassroots Small Business Survival campaign
- Broad Lobbying NFIB & Coalitions
  - Meetings, testimony, letters, briefings, studies
- Advertising
- Broad Grassroots *Take Action!*



# QUESTIONS?

