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February 8, 2022

To: The House Committee on Business and Labor
From: Anthony K. Smith, National Federation of Independent Business
Re: NFIB Written Testimony – HB 4002

Chair Holvey, Vice-Chairs Bonham & Grayber, and Members of the Committee:

On behalf of the thousands of Oregon small business members of the National Federation of Independent Business, many being the smallest of small businesses, I would like to share our concerns with HB 4002, a bill that would, within a few short years, require agricultural employers to pay overtime for hours worked beyond 40 hours per week.

The outcome of this legislation could have very serious consequences for communities across the state, especially in rural Oregon – and could impact every small business that serves Oregon’s farmers and ranchers.

Farming and ranching operations have always been excluded from federal overtime laws because of the unique, seasonal nature of the work and the global market of commodity prices. The ag industry is highly seasonal – heavily dependent on weather and other outdoor conditions. As currently drafted, HB 4002 makes no accommodations for peak seasons, like planting, pruning, or harvesting, just to name a few. Any new overtime requirement must allow a permanent seasonality provision when harvest periods, weather events, and the needs of livestock and crops require extended and unpredictable work schedules.

Oregon's farms and ranches are price-takers – unable to simply raise their prices when costs go up. If forced to pay overtime after 40 hours per week, ag employers will look to mechanize, grow less labor-intensive crops, and cap employee hours. Consequently, ag employees will see their hours and take-home pay reduced at a time when inflation is already putting financial strain on the household budgets of Oregonians.

Additionally, absent an exclusion for ag employers who already pay higher wages and provide other benefits that factor into total compensation, like insurance and housing, these farmers and ranchers will necessarily reevaluate what they can afford to offer

employees in the future. Choosing between new payroll costs and continuing with benefits that employees already rely on is not a decision any small business owner wants to make.

In its current form, HB 4002 proposes to phase-in the proposed overtime requirements over several years. This phase-in schedule is paired with a tax credit that is phased-out over the same time frame. As overtime costs increase, the credits provide less and less financial support when employers need it most. When these tax credits expire, farmers and ranchers will be left without resources necessary to maintain their operations. This is not a workable solution to keep Oregon's ag industry viable – and workers employed.

Agriculture is a major economic driver in nearly every part of Oregon. Farmers, ranchers, and their employees all rely on agriculture to earn a living. HB 4002 would severely disrupt the economics of this diverse industry and runs the risk of reducing incomes for everyone involved in agriculture. This is bad for these individuals, bad for the local businesses that serve them as customers, and bad for Oregon, which is highly dependent on the state's personal income tax.

As you deliberate on this complicated issue, NFIB respectfully asks you to:

- Seriously consider the highly seasonal nature of Oregon's ag industry
- Protect the incomes of farmers, ranchers – and their employees
- Oppose a rigid 40-hour per week overtime threshold

Thank you for your time and consideration,



Anthony K. Smith
NFIB Oregon State Director