Communities United Testimony in Support - HB357.do

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Position: FAV

Testimony in Support of House Bill 357 - Closing the LLC Loophole
Ways and Means Committee

Baltimore's premiere organizing and advocacy non-profit of low to moderate-income persons most impacted by systems of injustice proudly submits this written testimony of our support in the State of Maryland.

Since 2010, all we have been doing is organizing community members in communities and neighborhoods that are underfunded, over-policed, under-educated and under resources. Most of our members and their families live in food deserts, in poorly maintained housing, including public housing, sending their children to schools that lack proper basic modern updates: heating, cooling, well-maintained bathrooms and school supplies. Everything about their lives reminds them that the state and city do not value their lives. Even so, they have fought beside one another with us for community schools, safe housing, fair wages and accessible healthcare. We stand together demanding shifts in Maryland's tax law to put the burden on those able to pay.

All Marylanders deserve and need a world-class education system. We must not continue to prioritize tax breaks that benefit powerful special interests but do nothing to help our economy. We urge our legislators to commit to our families, communities and students as well as the future of our economy. Our students cannot wait.

We humbly, yet stridently ask that this committee takes a stand for those who need it most. We have a solution, and that is revisions to make our tax code fair.

<u>**Communities United urges a favorable report on House Bill 357.**</u>

1-26 RA HB 357 Income Tax - Pass Through Entity.p

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Position: FAV

LEAGUE OF WOMEN VOTERS OF MARYLAND

TESTIMONY TO THE HOUSE WAYS AND MEANS COMMITTEE

HB0357 - Income Tax – Pass-Through Entity

POSITION: Support

BY: Lois Hybl and Richard Willson – Co-Presidents

Date: January 28, 2021

Maryland League members understand the importance of the relationship between various revenue sources available to state government and the services provided by those revenues.

Promoting a sound economy and maintaining an equitable and flexible system of taxation are among the League's basic principles. LWVMD's positions include support for: 1) a progressive tax system, and 2) an equitable and efficient fiscal structure.

A sound revenue system must allow the State to invest in essential public goods such as education, transportation, and health care. In all three of these areas there has been serious underinvestment as demonstrated in public health with this pandemic; our roads, bridges, and transit; and the findings of the Kirwan Commission.

A fair tax treats equals as equals and must consider the fair or unfair nature of their legal framework. Companies such as LLCs are not required to pay corporate income taxes on their profits and instead pass the business income through to shareholders. Exceptionally large businesses are increasingly using pass-through structures to reduce their tax responsibilities. The State loses the opportunity to fairly tax this stream of profits.

We urge a favorable report on HB 357.

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HB 357 FAV to W&M Jan 28.pdf
Uploaded by: Bogdan, Henry
Position: FAV

MARYLAND NONPROFITS
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January 28, 2021

Testimony on House Bill 357
Income Tax - Pass-Through Entity - Additional Tax
House Way and Means Committee

Position: Favorable

Maryland Nonprofits is a statewide association of more than 1100 nonprofit organizations and institutions. We strongly urge you to support House Bill 357.

House Bill 357 would strengthen our ability to invest in things like education, health care, and our workforce by levying a 4 percent tax on the largest LLCs, partnerships, and S-corporations. This tax is tailored to protect true small businesses by exempting all sole proprietorships, regardless of size, and allowed every company to exempt its first $1 million in profits. The best available data suggests that the largest 2 percent of applicable companies would pay the majority of taxes under House Bill 357.

Unlike corporations, pass-through companies such as LLCs are not required to pay corporate income taxes on their profits. Instead, their income simply "passes through" to shareholders, which makes this form of legal organization an attractive way for large businesses to reduce their tax responsibilities. Contrary to widespread misconceptions, the majority of assets, sales, and profits are attributable to unambiguously large pass-through companies. Among LLCs, partnerships, and sole proprietorships, less than 2 percent of companies have $10 million or more in gross receipts, but these companies account for 72 percent of sales and nearly two-thirds of profits. Aside from a small number of exceptionally profitable smaller companies, House Bill 357 would affect only businesses in this stratum.

This is an especially opportune time to roll back special treatment of pass-through companies, as the 2017 federal tax overhaul—the Trump administration's signature legislative achievement—handed a massive tax break to individuals who receive pass-through income—on top of the special treatment this income already received. Because pass-through income goes only to individuals who own shares of pass-through companies, these tax breaks overwhelmingly benefited the small share of households with significant built-up assets.

To provide truly adequate resources for state government and the programs it needs to support across Maryland, and to raise those resources in a more equitable manner, we urge you to give House Bill 357 a favorable report.

Henry Bogdan
Director of Public Policy
hbogdan@mdnonprofit.org

HB 357 - Pass-Through Entity - Additional Tax.pdf
Uploaded by: Edwards, Donna
Position: FAV

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HB 357 – Income Tax – Pass-through Entity – Additional Tax
House Ways and Means Committee
January 28, 2021

SUPPORT

Donna S. Edwards
President
Maryland State and DC AFL-CIO

Madam Chair and members of the Committee, thank you for the opportunity to provide testimony in support of HB 357 – Income Tax – Pass-through Entity – Additional Tax. My name is Donna S. Edwards, and I am the President of the Maryland State and DC AFL-CIO. On behalf of the 340,000 union members in the state of Maryland, I offer the following comments.

Under our current tax law, large companies avoid taxes by being a pass-through entity (PTE), allowing profits to flow to members without being taxed. For most small businesses, like sole proprietorships, this makes sense because the owner is the primary worker of the business, directly benefiting from their own labor, and paying taxes on the profits, directly, as the primary member of the company. For larger businesses, with profits above $1 million per year, this practice is nothing more than moving money around, in an effort to avoid paying taxes on the profits.

HB 357 applies a 4% tax directly on the profits – in excess of $1 million per year – of the PTE distributive share, in order to recoup some of this lost revenue through existing PTE tax avoidance schemes. Not only is this the right thing to do – ensuring large businesses do not benefit in ways that small businesses cannot – but it would be incredibly beneficial to the State of Maryland, re-capturing lost revenues to the tune of $350 million per year.

Closing this loophole demonstrates to the taxpaying workers of Maryland that their labor is valued and that we will not allow large corporations to use tax avoidance schemes to pay less than they do for the services that we all enjoy.

We urge a favorable report on HB 357.

PGCYD Press Release 1_21_21.pdf
Uploaded by: Elliott, Richard DeShay
Position: FAV

NEWS RELEASE — **Contact: Martin Mitchell**

FOR IMMEDIATE RELEASE — President

2021 LEGISLATIVE SESSION — 410-493-7966/president@pgcyd.com

Prince George's County Young Democrats

Prince George's County, MD - The membership of the Prince George's County Young Democrats Legislative Committee have unanimously supported the following coalitions and policy resolutions.

Coalitions

- **Medical Aid in Dying (MAID) Bill Coalition**
- **Essential Worker's Coalition**
- **Maryland Rise - Paid Family Leave Coalition**

Policy Resolutions

In Support Of:

- **The expulsion of Delegate Mary Ann Lisanti. Lisanti referred to District 25 as a "nigger district" in the company of several state legislators. She was censured for this act in February 2019 but has refused to resign.**
- **The renaming of the House Office Building to honor Congressman Elijah Cummings. Former Chair of the Legislative Black Caucus of Maryland, first Black legislator to be named Speaker Pro Tempore, Congressman from Maryland's 7th Congressional District from 1996-2019, Chair of the Oversight & Reform Committee during the Trump presidency, and leading figure in Trump's impeachment by the House of Representatives.**
- **Banning the Maryland state government and local governments from the sale or purchase of items produced by prison labor unless paid prevailing wages.**
- **The Housing Justice package (HB52; HB18/SB154; HB104/SB401). Sponsored by Delegates Vaughn Stewart, Jheanelle K. Wilkins, Melissa Wells, Wanika Fisher and Senators Jill P. Carter, Will Smith, Charles Sydnor, & Shelly Hettleman.**
- **The Tax Fairness package (HB215; HB262; HB319; HB201). Sponsored by Delegate Julie Palakovich Carr to make Maryland's local property taxes & capital gains taxes are assessed in a progressive manner that lowers the burden for working families and ends tax loopholes in "opportunity zones" & carried interest.**
- **HB120/SB178. Sponsored by Delegate Gabriel Acevero & Senator Jill P. Carter, to expand public transparency of police data.**
- **HB15. Sponsored by Delegate Joseline Peña-Melnyk, to create a Governor's Office of Immigrant Affairs.**

Written By:

Phylicia Henry, *Chair of Legislative Affairs as a Whole.*

Janna Parker, *Chair of County Affairs.*

Richard DeShay Elliott, *Chair of State Affairs.*

Interested members of the general public are encouraged to join the Prince George's County Young Democrats, regardless of geographic location, as long as they meet two criteria: they are registered Democrats or Independents, and they are below the age of 40.

PGCYD.COM

- **HB28. Sponsored by Delegate Joseline Peña-Melnyk, to require Implicit Bias Training for medical professionals.**
- **HB309. Sponsored by Delegate Joseline Peña-Melnyk, to require a racial and ethnic health breakdown in state medical data.**
- **HB227. Sponsored by Delegate Nick Charles, to establish civil liability for improper police calls.**
- **HB82. Sponsored by Delegate Wanika Fisher, to amend the Maryland Constitution to guarantee a clean and safe environment for all Marylanders. HB82**
- **HB375. Sponsored by Delegate Kriselda Valderrama, to expand paid family leave in Maryland.**
- **HB124. Sponsored by Delegate Kriselda Valderrama, to protect employees from aerosol-transmitted diseases, including COVID-19.**
- **HB411. Sponsored by Delegate Nicole Williams, to prohibit sexual contact between law enforcement and those under arrest. HB411**
- **HB63. Sponsored by Delegate Nicole Williams, to prohibit state expenditures on magnetic levitation transportation systems. HB63**
- **HB171. Sponsored by Delegate Alonzo Washington, to study school discipline statistics in Maryland. HB171**
- **HB206. Sponsored by Delegate Alonzo Washington. to expand Early Voting hours in Maryland.**
- **HB153. Sponsored by Delegate Julian Ivey, to expand vote by mail in Maryland.**
- **HB24. Sponsored by Delegate Julian Ivey, to make primary and general Election days as state holidays in Maryland.**
- **HB336/SB276. Sponsored by Delegate Julian Ivey & Senator Jill P. Carter. to ban private police departments for universities.**
- **HB168/HB221. Sponsored by Delegates Julian Ivey & Veronica Turner, to address credit discrimination in motor vehicle insurance.**
- **HB51. Sponsored by Delegate Veronica Turner to require environmental justice analysis during the zoning process for landfills.**
- **HB172. Sponsored by Delegate Mary Legman to require combined reporting of corporate income taxes, as is practice in 29 states and DC.**
- **HB341. Sponsored by Delegate Mary Lehman, to begin the tabulation of absentee ballots 14 days before Election Day, as is practice in Arizona.**
- **HB524. Sponsored by Delegate Mary Lehman, to require the presentation of rental licensing during court proceedings involving rental properties.**
- **HB194. Sponsored by Delegate Melissa Wells, to require implicit bias training for police officers.**
- **HB413. Sponsored by Delegate Melissa Wells, to require implicit bias training for**

judges.

- **HB355/SB37. Introduced by Delegate Sheila Ruth & Senator Jill P. Carter, to ensure electronic collection of ballot signatures and expand the public's ability to gather signatures.**
- **HB89/SB397. Sponsored by Delegate Jheanelle K. Wilkins & Senator Jill P. Carter, to shorter incarceration sentences with academic options.**
- **HB222/SB224. Sponsored by Delegate Jheanelle K. Wilkins & Senator Chris West, to ensure that incarcerated individuals are aware of their voting rights and are given the opportunity to vote.**
- **HB155/SB98. Sponsored by Delegate Jheanelle K. Wilkins & Senator Cory McCray, to ban discrimination in pre-k programs and schools.**
- **HB41. Sponsored by Delegate Stephanie Smith, to establish a state banking taskforce.**
- **HB320. Sponsored by Delegate Stephanie Smith, to ease the transfer of credits.**
- **Legislation to shield eviction proceedings from the general public and protect the credit and financial history of tenants. Sponsored by Delegate Nicole Williams.**

Favorable With Amendments

- **HB238. Sponsored by Delegate Melissa Wells, to automatically expunge certain crimes after a certain period of time, expanding job opportunities for returning citizens.**
  Amendment, introduced by Janna Parker:
  "Crimes that have been expunged or not found guilty for, should be retroactively removed from the Maryland CaseSearch database."
- **HB269. Sponsored by Delegate Melissa Wells, to create urban agriculture grants.**
  Amendment, introduced by Richard DeShay Elliott:
  "Prince George's County will be included in the implementation of this bill, following upcoming rezoning"

In Opposition Of:

- **The nomination of Bryon Bereano to the Circuit Court. Prince George's County voters did not nominate him to the Court in the 2020 elections. His Senate confirmation should be denied.**

"The members of PGCYD remain committed to amplifying their voices on potential policy decisions that could impact their communities and daily life. We look forward to working with our elected leaders to ensure that public policy presented before us, is for us and for the betterment of everyone, and not just a select few", Henry said.

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Written By:
Phylicia Henry, *Chair of Legislative Affairs as a Whole.*
Janna Parker, *Chair of County Affairs.*
Richard DeShay Elliott, *Chair of State Affairs.*

Interested members of the general public are encouraged to join the Prince George's County Young Democrats, regardless of geographic location, as long as they meet two criteria: they are registered Democrats or Independents, and they are below the age of 40.

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CBPP Michael Mazerov HB357 FAV.pdf
Uploaded by: Mazerov, Michael
Position: FAV

Center on Budget and Policy Priorities

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Testimony Of
Michael Mazerov, Senior Fellow, Center on Budget and Policy Priorities

Before the
Maryland House of Delegates Ways and Means Committee

Hearing on H.B. 357, A Bill to Impose an Additional Tax on the Distributed Profits of Large Passthrough Entities
January 28, 2021

Chair Kaiser and Members of the Ways and Means Committee, I'm Michael Mazerov, a Senior Fellow with the State Fiscal Policy division of the Center on Budget and Policy Priorities in Washington, D.C. The Center is a non-partisan research and policy institute that pursues federal and state policies designed to reduce poverty and inequality and to restore fiscal responsibility in equitable and effective ways. We apply our expertise in budget and tax issues and in programs and policies that help low-income people to help inform debates and achieve better policy outcomes. I appreciate the opportunity to submit testimony in support of H.B. 357.

Delegate Palakovich Carr's bill would impose a four percent tax on the distributed profits of large pass-through entities to bring their tax treatment more in line with that of taxable corporations. The tax would not apply to sole proprietors or businesses owned by employee stock ownership plans. Passthroughs are businesses that are not subject to the corporate income tax. They are exempt either because they are not corporations, for example, they are partnerships or limited liability companies, or because they are corporations that qualify to be exempt from the corporate income tax under the conditions set in Subchapter S of the Internal Revenue Code. They are called passthroughs because their profits are passed through to the tax returns of their owners and taxed there. The owners of S corporations are almost always individuals, while the owners of partnerships and LLCs can be individuals or other businesses – including taxable corporations and other passthroughs.

Passthrough treatment, that is, exemption from the corporate income tax, was intended initially to benefit small businesses. And initially that is the kind of businesses it benefited. But many passthrough businesses now are not small. For example, many billion-dollar hedge funds are organized as passthroughs. Moreover, many passthroughs have much higher profits than many small corporations that are subject to the corporate income tax. For example, the IRS reported that in 2013 there were 490,000 taxable corporations with profits below $1 million, representing 98 percent of all taxable corporations with profits. If there are this many corporations with profits below $1 million that are subject to the normal corporate income tax, surely it is fair to expect passthroughs with profits above $1 million to pay some tax as business entities. Since many passthroughs get all or most of the non-tax benefits of taxable corporations – most importantly, their owners' liability for the debts of the business are limited to their equity investments – there is no longer any justification for completely exempting these businesses from tax at the entity level.

Accordingly, H.B. 357 proposes to impose a four percent tax on the profits over $1 million that passthroughs distribute to their owners. Profits plowed back into the business would not be subject to the tax. Even if they were distributed and subject to tax, they would still receive more favorable tax treatment than profits distributed as dividends to regular corporate shareholders. In other words, there would still be a significant tax savings in operating as a passthrough for businesses for whom that makes sense for non-tax reasons.

In making this long-overdue change, Maryland would not be alone. The District of Columbia imposes a tax on passthroughs at the full corporate tax rate, as does New York City. California, Massachusetts, and Illinois also impose taxes on the profits of some types of passthroughs. Kentucky imposes a gross receipts tax. New Hampshire, Tennessee, and Texas tax passthroughs essentially the same way they tax regular corporations.

Large passthroughs differ little from taxable corporations and should therefore be subject to some type of tax as business entities. I therefore urge the committee to favorably report H.B. 357. I thank the Committee for the opportunity to submit written testimony. I may be reached at mazerov@cbpp.org if Committee members have any questions.

HB 357_MDCEP_FAV
Uploaded by: Meyer, Christopher
Position: FAV

Maryland Can Invest in our Future by Rolling Back Special Treatment for Large Businesses

Position statement in support of House Bill 357 with amendment

Given before the House Ways and Means Committee

An effective revenue system is an essential tool to enable Maryland to invest in the foundations of our economy, such as education, health care, and transportation. Just as importantly, a fair tax system is essential to push back against the increasing concentration of wealth and power in a few hands. All Marylanders benefit when we have sufficient resources to invest in the basics, and these investments can be particularly important to break down the barriers—built through past and present policies—that hold back many Marylanders because of their race, gender, a disability, or another aspect of their identity. House Bill 357 would roll back a special business tax break that overwhelmingly benefits a small number of large businesses and wealthy, predominantly white households, while raising $1.8 billion over five years to invest in Maryland communities. For these reasons, the Maryland Center on Economic Policy supports House Bill 357 with amendment to clarify legislative intent and prevent tax avoidance.

Maryland has been underinvesting in the foundations of our communities ever since the Great Recession. We chipped away at public school funding, allowing the number of school districts that were close to full funding under the Thornton formula to fall from 23 out of 24 in fiscal year 2008 to only six by 2017—with more than half of the state's Black students going to school in a district that was underfunded by 15 percent or more.[i]

We have allowed other essential investments to erode as well:

- As of late 2017, legislative analysts estimated that state agencies were understaffed to the tune of about 2,500 workers.[ii]
- Today, nearly 3,000 Marylanders with disabilities that are considered "severe" by state standards are unable to access supports that could help them succeed in the workforce because the state lacks the resources to provide those supports.[iii]

House Bill 357 would strengthen our ability to invest in things like education, health care, and our workforce by levying a 4 percent tax on the largest LLCs, partnerships, and S-corporations. This tax is tailored to protect true small businesses by exempting all sole proprietorships, regardless of size, and allowed every company to exempt its first $1 million in profits. The best available data suggests that the largest 2 percent of applicable companies would pay the majority of taxes under House Bill 357. With these protections in place, the bill is expected to raise upward of $300 million per year, totaling $1.8 billion by fiscal year 2025.[iv]

Unlike corporations, pass-through companies such as LLCs are not required to pay corporate income taxes on their profits. Instead, their income simply "passes through" to shareholders, which makes this form of legal organization an attractive way for large businesses to reduce their tax responsibilities. Contrary to widespread misconceptions, the majority of assets, sales, and profits are attributable to unambiguously large pass-through companies. Among LLCs, partnerships, and sole proprietorships, less than 2 percent of companies have $10 million or more in gross receipts, but these companies account for 72 percent of sales and nearly two-thirds of profits.[v] Aside from a small number of exceptionally profitable smaller companies, House Bill 357 would affect only businesses in this stratum.

This is an especially opportune time to roll back special treatment of pass-through companies, as the 2017 federal tax overhaul—the Trump administration's signature legislative achievement—handed a massive tax break to individuals who receive pass-through income—on top of the special treatment this income already received. Because pass-through income goes only to individuals who own shares of pass-through companies, these tax breaks overwhelmingly benefited the small share of households with significant built-up assets.[vi] Nationwide, the wealthiest 10 percent of white households (about 7 percent of all households) control nearly two-thirds of all household wealth.[vii] House Bill 357 would improve racial equity by partially offsetting special treatment of heavily tilted income from wealth rather than work.

One amendment is necessary to clarify the legislative intent of House Bill 357 and ensure that out-of-state investors are not able to avoid their tax responsibility. The bill should be amended to prohibit nonresident shareholders from applying the credit allowed under Tax – General §10–701.1 to the 4 percent pass-through tax.

As Marylanders consider the major investments we will need to strengthen the foundations of our economy in future years—from world-class schools to high-quality health care—we should prioritize ending special interest tax breaks, making our tax code more equitable, and raising significant new revenue. House Bill 357 would accomplish all three goals.

For these reasons, the Maryland Center on Economic Policy respectfully requests that the House Ways and Means Committee make a favorable report on House Bill 357 with amendment.

Equity Impact Analysis: House Bill 357

Bill summary

House Bill 357 levies a 4 percent tax on profits in excess of $1 million of S-corporations, LLCs, and partnerships.

Background

Maryland's tax code as well as federal law grant special treatment to pass-through companies such as LLCs, partnerships, and S-corporations by allowing them to avoid paying corporate income tax, instead "passing through" their profits directly to shareholders. This tax break creates an incentive for large businesses to reduce their tax responsibilities by using this form of legal organization.

The 2017 federal tax overhaul expanded special treatment of pass-through income by creating a sizable new deduction for individuals with pass-through income.

Equity Implications

House Bill 357 would bring significant equity benefits:

- Nearly three-quarters of income from S-corporations and partnerships goes to the wealthiest 1 percent of Maryland households, who currently pay a smaller share of their income in state and local taxes than the rest of us do. House Bill 357 would make our tax code more balanced by ensuring that these business profits are taxed in a more equitable way.
- The vast majority of pass-through company profits go to households with significant built-up assets. The 10 percent of households nationwide with at least $1.2 million in built-up wealth includes 13 percent of white households, 5 percent of all households of color, and less than 2 percent of Black households. A smaller

group, the 10 percent of white households with the most built-up wealth, control nearly two-thirds of household assets nationwide. House Bill 357 would tax a source of income that overwhelmingly goes to a small, predominantly white group of wealthy households.

- Partially offsetting special treatment of pass-through company profits would generate revenue that could be invested in things like world-class schools, sufficient child care assistance, and reliable transit. Investing in these basics strengthens our economy and can dismantle the economic barriers that too often hold back Marylanders of color.

Impact

House Bill 357 would likely **improve racial and economic equity** in Maryland.

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[i] Christopher Meyer, "Budgeting for Opportunity: How our Fiscal Policy Choices Can Remove Barriers Facing Marylanders of Color and Advance Shared Prosperity," Maryland Center on Economic Policy, 2018, http://www.mdeconomy.org/budgeting-for-opportunity/

[ii] David Juppe et al., "Executive Branch Staffing Adequacy Study," Department of Legislative Services, 2018, http://dls.maryland.gov/pubs/prod/TaxFiscalPlan/Executive-Branch-Staffing-Adequacy-Study.pdf

[iii] Maryland State Department of Education–Division of Rehabilitation Services, https://dors.maryland.gov/consumers/Pages/waiting.aspx

[iv] House Bill 357 Fiscal and Policy Note.

[v] Data on gross receipts from 2012 Joint Committee on Taxation analysis of business statistics of income data, https://www.jct.gov/publications.html?func=startdown&id=4903
Data on profits from 2003 IRS Integrated Business data. For more details, see Christopher Meyer, "Building Our Future: Technical Appendix," Maryland Center on Economic Policy, 2019, http://www.mdeconomy.org/wp-content/uploads/2019/01/Building-Our-Future-technical-appendix.pdf

[vi] "Pass-Through Deduction Benefits Wealthiest, Loses Needed Revenue, and Encourages Tax Avoidance," Center on Budget and Policy Priorities, 2019, https://www.cbpp.org/research/federal-tax/pass-through-deduction-benefits-wealthiest-loses-needed-revenue-and-encourages

[vii] Michael Leachman, Michael Mitchell, Nicholas Johnson, and Erica Williams, "Advancing Racial Equity with State Tax Policy," Center on Budget and Policy Priorities, 2018, https://www.cbpp.org/research/state-budget-and-tax/advancing-racial-equity-with-state-tax-policy

Delegate_Palakovich_Carr_Testimony_HB357.pdf

Uploaded by: Palakovich Carr, Julie

Position: FAV

Julie Palakovich Carr
Legislative District 17
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Ways and Means Committee

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THE MARYLAND HOUSE OF DELEGATES
Annapolis, Maryland 21401

Testimony in Support of HB 357
Income Tax – Pass-Through Entity – Additional Tax

Some companies are gaming Maryland's tax system in the way they structure their business. By setting the business up as a pass-through entity, such as an LLC, partnership, or S-corporation, these businesses avoid paying state corporate income taxes. Pass-through entities are intended for use by small businesses, but there are no protections in place in state law to prevent large, profitable companies from avoiding the corporate income tax.

This legislation would close the so-called 'pass-through loophole' by applying a 4% tax on a pass-through entity's profit in excess of $1 million. It's estimated that only 2% of pass-through companies will be subject to the tax, but it will generate significant revenues for the state.

What Are Pass-Through Entities?

Pass-through entities are specific types of business structures, including LLCs, partnerships, and S-corporations. These types of entities were designed to meet the needs of small businesses. About three-quarters of all pass-through entities are sole proprietorships,[1] which are exempted from this legislation.

Pass-Through Entities Don't Pay Corporate Taxes

By definition, these types of businesses don't pay corporate income tax. Instead, the business profits flow through to the business owner(s) and are taxed as part of the owner's individual income taxes.

In Maryland, the corporate tax rate is 8.25% but the tax rate for a pass-through entity is 0%. In both cases, the owners and employees of the business are taxed on their individual income and wages; those individual taxes are the same regardless of the legal structure of the company.

[1] https://taxfoundation.org/pass-through-businesses-data-and-policy/

A Growing Problem

A growing share of business activity is conducted by pass-through entities.[2] Less than half of all businesses were organized as pass-through entities in 1980; by 2014, that level grew to 80%. Similarly, the share of business net income in the U.S. contributed by pass-through entities has grown from less than 20% to more than 50%.

This rise in pass-through entities is decreasing government tax revenues. According to the Congressional Budget Office, "if the C-corporation tax rules had applied to S corporations and LLCs in 2007 and if there had been no behavioral responses to that difference in tax treatment, federal revenues in that year would have been about $76 billion higher."[3]

Maryland is also losing out on tax revenues. According to the Maryland Center on Economic Policy, "the unwarranted special tax break large pass-through companies receive on their profits has driven a growing share of businesses to organize as pass-throughs, eroding the corporate tax base." The increase in corporate entities organizing as pass-through entities was also cited by DLS as a reason for the "relative decline of corporate income tax revenues."[4]

It's not just the government that loses out. The increased share of business activity from pass-through entities also "increases the extent to which businesses similar in size and in the same industry are being taxed differently," per the Congressional Budget Office.

Actions Taken by Other States

At least seven states have enacted laws to address tax fairness among different types of businesses: California, Illinois, Massachusetts, New Hampshire, Ohio, Tennessee, and Texas. Additionally, the District of Columbia and New York City also tax pass-through entities.

What the Bill Does

- Reduces the special treatment of pass-through businesses in the state tax code.
- Establishes a 4% tax on profits over $1 million of S-corporations, partnerships, and LLCs.

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[2] Tax Policy Center, https://www.taxpolicycenter.org/briefing-book/what-are-pass-through-businesses
[3] "Taxing Businesses Through the Individual Income Tax," 2012, Congressional Budget Office.
[4] "Maryland's Corporate Income Tax Overview and Issues," 2011, Department of Legislative Services.

    - Sole proprietorships and employee owned companies are exempted in the legislation.
- The taxes would be deductible at the federal level for these businesses.
    - These taxes could also be used in the SALT deduction workaround passed by the General Assembly in 2020.
- This legislation is expected to affect less than 2% of pass-through companies, yet still generate millions of dollars in new revenue.

TESTIMONY FOR HB0357 Income Tax - Pass-Through Ent

Uploaded by: Plante, Cecilia
Position: FAV

MARYLAND LEGISLATIVE COALITION

TESTIMONY FOR HB0357
INCOME TAX – PASS-THROUGH ENTITY – ADDITIONAL TAX

Bill Sponsor: Delegate Palakovich-Carr
Committee: Ways and Means
Organization Submitting: Maryland Legislative Coalition
Person Submitting: Cecilia Plante, co-chair
Position: FAVORABLE

I am submitting this testimony in favor of HB0357 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists and our Coalition supports well over 30,000 members.

Limited Liability Companies (LLCs) are limited partnerships which do not pay a corporate business tax. This will mean that companies that make more than $1 million in profits would have to pay only 4 cents on every dollar of profit over $1 million.

In a time where we need additional revenues to help prop up small businesses and individuals who have no income, this seems especially necessary.

We support this bill and recommend a **FAVORABLE** report in committee.

HB 357 Income Tax - Pass-Through Entity - Addition
Uploaded by: Riley, Denise
Position: FAV

A Union of Professionals
AFT-Maryland

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Marietta English
PRESIDENT

Kenya Campbell
SECRETARY-TREASURER

Written Testimony to the House Ways and Means Committee
HB 357 - Income Tax - Pass-Through Entity - Additional Tax
January 28, 2021

SUPPORT

Good afternoon Chair Kaiser and members of the Committee. On behalf of AFT- Maryland's more than 20,000 state, municipal, and public education workers, we ask for a favorable report on HB 357.

Maryland's tax system is full of loopholes and special tax breaks that primarily benefit large corporations and the ultra-rich at the expense of small businesses and low and middle-income families. Our inequitable tax code does not provide the state with adequate resources to fund all the services we need and rely on, like schools, public health, transportation, and environmental protections.

The coronavirus pandemic has only made it worse. The state legislature must act to ensure Maryland can sustain vital public services, meet the needs of families and small businesses struggling because of the coronavirus pandemic and ensure schools have the resources to adapt to a new learning environment.

Large, multi-state and multinational corporations can take advantage of accounting gimmicks to avoid their tax responsibilities. This gives them a substantial advantage over small, Maryland-based businesses who pay their fair share in taxes.

This legislation would close loopholes that shield some corporate profits from taxation. Maryland's corporate income tax is calculated using a formula intended to measure the portion of a corporation's business activities that occur in Maryland.

It is for these reasons that we ask the committee give a favorable report to HB 357.

Marietta English
President

CUBTestimonyHB357Support.pdf
Uploaded by: Ryan-Johnson, Antoinettte
Position: FAV

AFT
AFL-CIO
CITY UNION OF BALTIMORE
LOCAL 800

City Union of Baltimore

Local 800, AFT, AFL-CIO

President
Antoinette Ryan-Johnson

Executive Vice President
Donna Price

Written Testimony from the City Union of Baltimore
AFT Local 800
Submitted by Antoinette Ryan-Johnson, President
HB 357 – Income Tax – Pass-through Entity – Additional
House Ways and Means Committee
January 28, 2021

SUPPORT

Good afternoon Chairwoman Kaiser and members of the House Ways and Means Committee. My name is Antoinette Ryan-Johnson, and I am the president of the City Union of Baltimore, AFT Local 800, the union representing a number of Baltimore City government workers. On behalf of the thousands of municipal employees working to serve the residents of Baltimore City, the City Union of Baltimore enthusiastically calls for a favorable report on HB 357, the bill that closes a loophole by which large corporations can claim their income as taxable under the personal tax rate rather than the appropriate corporate tax rate.

The members of the City Union of Baltimore are on the frontlines as counties and cities like Baltimore attempt to provide these essential services on a day-to-day basis. Whether it is working for the city's health department, answering calls to the city's 311 and 911 phone lines, maintaining vital infrastructure such as roads, or making sure basic necessities like drinking water or regular trash pickup are provided to our residents, CUB members certainly have been risking their lives to make sure our city remains up and running. Indeed, we have unfortunately lost some members who gave their lives in the service of our city so that residents may make it through this terrible pandemic.

The global pandemic has absolutely hindered our local municipality's ability to raise the revenues we need to keep providing these basic services, however. Long anticipated aid to local governments has been slow to come to fruition, and this has only placed more stress on local government's ability to provide these services to our residents. Let me make this abundantly clear—we will not survive this pandemic if we as a state and our local governments cannot provide these basic services to our residents.

City Union of Baltimore

Local 800, AFT, AFL-CIO

President
Antoinette Ryan-Johnson

Executive Vice President
Donna Price

The tax loophole that currently exists has given ultra wealthy corporations a big perk perk—namely, being able to claim their income as taxable under the individual, not corporate, tax rate. <u>Maryland can no longer afford perks such as these where a limited few—largely quite privileged and wealthy—are given fiscal advantages that are unavailable to the typical resident</u>, especially at a time when the state is scrambling to figure out how to maintain these vital services. The wealthy and poor alike deserve access to clean drinking water, safe, well-kept roads, and the expectation that someone will be on the other line when they call 911 in case of an emergency. The state must close this tax loophole if it is to be able to assist local jurisdictions in providing these services to residents in this time of great need.

Again, I urge a favorable report for HB 357. Thank you.

1.28_HB357 Pass Through Maryland PIRG (1).pdf
Uploaded by: Scarr, Emily
Position: FAV

Maryland PIRG

Maryland Public Interest Research Group

<u>HB 357 Income Tax - Pass-Through Entity - Additional Tax</u>
Ways and Means Committee
January 28th, 2021
Position: Favorable

Maryland PIRG's mission is to deliver persistent, result-oriented public interest activism that protects consumers, encourages a fair, sustainable economy, and fosters responsive, democratic government. We are a Baltimore based, statewide, non-partisan, non-profit, citizen-funded public interest advocacy organization with thousands of members across the state.

Many large multi-state corporations slash or eliminate the taxes they pay to Maryland by organizing as S-corporations, LLCs, or other so-called pass-through entities can avoid paying corporate income tax, no matter how large or profitable they become.

This deprives Maryland of revenue needed for critical services like education and health care, or forces others in the state to pay higher taxes to make up the difference. Those engaging in this practice gain an unfair advantage over companies doing business solely in Maryland.

This legislation would partially offset that special treatment by levying a 4 percent tax—just under half the corporate tax rate—on the largest pass-through businesses.

Closing the pass-through/LLC loophole would help level the playing field for Maryland's local businesses. Smaller, Maryland-based businesses don't have the ability to engage in the schemes to avoid taxes. Reforming the system would help local businesses compete, and make sure big companies pay for the services that help them do business in Maryland.

We respectfully request a favorable report.

Emily Scarr, Maryland PIRG Director
@emilyscarr @Marylandpirg
Marylandpirg.org

HB 357 - Fair Funding Coalition - FAV.pdf
Uploaded by: Slayton, Kevin
Position: FAV

MARYLAND
FAIR FUNDING
COALITION

Testimony in <u>SUPPORT</u> of HB 357
Del. Anne Kaiser, Chair
House Ways & Means Committee

The Maryland Fair Funding Coalition (MFFC) is a statewide coalition of 25 organizations dedicated to supporting policy proposals that modernize our state tax code and raise revenue to fund our public school system.

We strongly believe that the state can fund the necessary investments detailed in the Blueprint for Maryland's Future by eliminating corporate loopholes and tax breaks that benefit special interests and fixing our upside-down tax code, which allows the wealthiest individuals to pay the smallest share of their income in state and local taxes.

Our coalition supports HB 357, which would limit the special treatment of the income from very large, profitable "pass-through" businesses and generate more than $300 million in state revenue per year.

Companies such as LLCs are not required to pay corporate income taxes on their profits and instead pass the business income through to shareholders. Very large businesses are increasingly using pass-through structures to reduce their tax responsibilities.

In addition, the 2017 federal Tax Cut and Jobs Act handed a massive tax break to individuals who receive pass-through income—on top of the special treatment this income already received. The benefits of this change overwhelmingly went to a small number of very wealthy households. HB 357 would partially offset this special treatment and make Maryland's tax system more equitable.

We are all better off when our communities have the resources they need to thrive. Cleaning up Maryland's tax code to make it more effective and equitable will allow us to invest more in our schools and build a stronger future for Maryland.

Therefore, we urge a **favorable** vote on HB 357.

AFSCME-HB357-Pass Through.pdf
Uploaded by: Smalls, Cindy
Position: FAV

190 West Ostend St., #201
Baltimore, MD 21230
Phone: 410.547.1515
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Patrick Moran - President

Testimony
HB 357 Income Tax – Pass Through Entity – Additional Tax
Ways & Means Committee
January 28th, 2021
Support

AFSCME Council 3 which representing 30,000 state and Higher Education employees supports HB 357. We believe the state must be committed to raising revenue to sustainably provide the resources it needs to make significant new investments in essential state services.

Maryland's tax code as well as federal law grant special treatment to pass-through companies such as LLCs, partnerships, and S-corporations by allowing them to avoid paying corporate income tax, instead "passing through" their profits directly to shareholders. This tax break creates an incentive for large businesses to reduce their tax responsibilities by using this form of legal organization. The 2017 federal tax overhaul expanded special treatment of pass-through income by creating a sizable new deduction for individuals with pass-through income.

While it is true that most pass-through businesses in Maryland are small, the greatest profits are flowing through very large businesses that choose these business structures specifically to avoid corporate income taxes and take advantage of additional deductions available to pass-through businesses. Closing the LLC loophole would ensure that these large passthrough entities pay their fair share in taxes while protecting small businesses who rely on these structures.

This legislation would partially offset the special tax treatment by levying a 4 percent tax — less than half the corporate tax rate — on the largest pass-through businesses. The tax would be paid at the entity level before the profits are "passed through" to the owners. It would only apply to businesses with over $1 million in profits (after expenses) in a given year. Less than 2 percent of pass-through businesses in Maryland are this size.

As Marylanders consider major investments, we will need to strengthen the foundations of our economy in future years by prioritizing ending special interest tax breaks, making our tax code more equitable, and raising significant new revenue. House Bill 357 would accomplish all three goals.

For these reasons, we ask for a favorable report on House Bill 357.

HB0357 - 1.28.21-- Income Tax - Pass-Through Entit

Uploaded by: Fry, Donald

Position: UNF

gbc POSITION STATEMENT

TESTIMONY PRESENTED TO THE HOUSE WAYS AND MEANS COMMITTEE

HOUSE BILL 357 -- INCOME TAX - PASS-THROUGH ENTITY - ADDITIONAL TAX
Delegate Palakovich Carr

January 28, 2021

DONALD C. FRY
PRESIDENT & CEO
GREATER BALTIMORE COMMITTEE

Position: Oppose

House Bill 357 imposes a State tax on income distributed to members of pass-through entities from the pass-through entity's taxable income exceeding $1,000,000.

The GBC opposes House Bill 357 because the impact falls disproportionally on small businesses that are not registered as corporations, but instead are partnerships, S corporations, limited liability companies, and sole proprietorships. The bill also makes Maryland's tax structure less competitive with surrounding and competitor states who do not impose this tax.

In response to this proposal and a myriad of tax-related legislation pending this session in the Maryland General Assembly, the GBC advocates for the creation of a comprehensive tax commission to study a fair, equitable, and modernized system of taxation. The GBC respectfully requests to be a formal member of any commission that may be created by the Maryland General Assembly. Based on the need to examine Maryland's tax structure and the urgency for reliable revenue streams that fully fund education reform and other policy priorities without impeding much needed economic recovery, it is the right time for the creation of comprehensive tax commission.

This bill is inconsistent with a key tenet in *Gaining the Competitive Edge: Keys to Economic Growth and Job Creation in Maryland,* a report published by the GBC that identifies eight core pillars for a competitive business environment and job growth:

> **Tax structure that is fair and competitive.** Maryland's tax policy must be perceived by business as being competitive and devoid of elements that unreasonably target specific businesses or business sectors.

The COVID-19 pandemic has already created uncertainty and diminished the economic vitality of our State this year. The GBC contends that the state should avoid compounding the damage by legislation that would further the current economic crisis.

For these reasons, the Greater Baltimore Committee urges an unfavorable report on House Bill 357.

The Greater Baltimore Committee (GBC) is a non-partisan, independent, regional business advocacy organization comprised of hundreds of businesses -- large, medium and small -- educational institutions, nonprofit organizations and foundations located in Anne Arundel, Baltimore, Carroll, Harford, and Howard counties as well as Baltimore City. The GBC is a 66-year-old, private-sector membership organization with a rich legacy of working with government to find solutions to problems that negatively affect our competitiveness and viability.

MBIA Testimony HB 357.pdf
Uploaded by: Graf, Lori
Position: UNF

MARYLAND BUILDING INDUSTRY ASSOCIATION
11825 West Market Place | Fulton, MD 20759 | 301-776-6242

January 28, 2020

The Honorable Anne R. Kaiser
Ways & Means Committee
House Office Building, Room 131,
6 Bladen St., Annapolis, MD, 21401

RE: Opposition to HB 357 (Income Tax – Pass-Through Entity – Additional Tax)

Dear Chairwoman Kaiser:

The Maryland Building Industry Association, representing 1,100 member firms statewide, appreciates the opportunity to participate in the discussion surrounding HB 357 Income Tax – Pass-Through Entity – Additional Tax. MBIA Opposes the Act in its current version.

This bill would impose a 4% tax on pass through incomes of over 1 million dollars. MBIA opposes this measure for economic reasons. The establishment of pass through entities was meant to reduce the tax burden of small businesses in order to incentivize taking a risk to establish a business. This bill would now punish those people that spent their own personal time and money establishing a successful business on the assumption that they would reap the promised benefits. This tax would disincentivize people from making those decisions in the future because of the reduced reward potential. This legislation would put Maryland at a competitive disadvantage from other states and may encourage businesses to leave the State.

For these reasons, MBIA respectfully requests the Committee give this measure an unfavorable report. Thank you for your consideration.

For more information about this position, please contact Lori Graf at 410-800-7327 or lgraf@marylandbuilders.org.

cc: Members of the House Ways & Means Committee

HB 357_Income Tax_PTE_Additional Tax_UNFAV.pdf

Uploaded by: Griffin, Andrew

Position: UNF

LEGISLATIVE POSITION:
Unfavorable
House Bill 357
Income Tax-Pass Through Entity— Additional Tax
House Ways & Means Committee

Thursday, January 28, 2021

Dear Chairwoman Kaiser and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce is the leading voice for business in Maryland. We are a statewide coalition of more than 5,000 members and federated partners, and we work to develop and promote strong public policy that ensures sustained economic growth for Maryland businesses, employees and families.

House Bill 357 would impose an additional 4% tax on the income of a pass-through entity's taxable income exceeding $1,000,000, unless the pass-through entity is organized as a sole proprietorship or has implemented a specified stock ownership plan.

Many businesses in Maryland are organized as pass-through entities. Pass-through entities include sole proprietorships, partnerships and S-corporations. These businesses are not subject to the corporate income tax. Instead, owners are taxed under the individual income tax.

In Maryland, a C-corporation pays 8.25% income tax, and shareholders pay up to 8.95% personal income tax on any cash dividends they receive. This is considered when shareholders elect to be treated as an S-corporation or the members choose to be a partnership or limited liability company. However, the C-corporation shareholder only pays tax on dividends received. Conversely, a pass-through entity owner pays current income tax on *all* the income of the PTE, even the cash that is reinvested in the business (i.e. purchases of new equipment, etc.) that the member does not receive.

Maryland has remained one of the highest in terms of personal tax rates for quite some time. Implementation of this legislation would put the State at the top of that category. The additional tax would require the owners of pass-through entities that operate in Maryland to pay the current up-to 8.95% income tax, plus 4%, for a total of up-to 12.95%. This would exceed California's 12.3% for the individual who has under $1 million share of the PTE and close to California's top 13.4% for income over $1 million.

We know that larger pass-through entities employ a greater number of Marylanders. This legislation would present a very large disincentive for PTEs to expand, inhibiting their ability to create new jobs and contribute more the Maryland's economy.

Furthermore, COVID-19 has had a tremendous, detrimental impact on Maryland's economy. There is plenty of reason to remain cautious and concerned about its lasting implications. Maryland businesses continue to struggle, and the Comptroller's Office has estimated that approximately 30,000 businesses have either closed or will close permanently due to the pandemic. A period of major economic downturn and future uncertainty is not the time to implement tax measures that stand to negatively impact businesses that are already struggling to overcome the impact of COVID-19.

For these reasons, the Maryland Chamber of Commerce respectfully requests an **Unfavorable Report** on House Bill 357, as presented.

HB 357 Income Tax - Pass-Through Entity - Addition

Uploaded by: McCulloch, Champe

Position: UNF

HB 357
Income Tax - Pass-Through Entity - Additional Tax
Ways and Means Committee
Position: Unfavorable

Maryland AGC, the Maryland Chapter of the Associated General Contractors of America, provides professional education, business development, and advocacy for commercial construction companies and vendors, both open shop and union. AGC of America is the nation's largest and oldest trade association for the construction industry. AGC of America represents more than 26,000 firms, including over 6,500 of America's leading general contractors, and over 9,000 specialty-contracting firms, all through a nationwide network of chapters. Maryland AGC opposes HB 357 and respectfully urges that HB 357 be given an unfavorable report.

Under HB 357, a tax of 4% is imposed on the distributive share or pro rata share of income distributed to a member of a pass–through entity from the pass–through entity's taxable income that exceeds $1,000,000.

HB 357 is simply a way to increase the State's revenues, devoid of any justification for singling out the members or partners of pass-through entities as the victims nor for establishing 4% as the penalty imposed for running a successful business. There is nothing in the form of organization adopted by business people that justifies a particular tax treatment. C corporations are no better a form of organization than pass-through entities. Each form serves a purpose, and neither form justifies a targeted tax.

Taxable income of $1,000,000 or more is not unusual in the construction industry, but it hardly means that the owners are awash in funds. It should not be forgotten that every construction contract puts all of the personal assets of the owners at risk. Fail and the owners can lose their homes, cars, and other property. That is a risk they accept. However, if the owners of these pass-through entities succeed, they are entitled to pay no more tax than other individuals with comparable incomes.

Accordingly, Maryland AGC respectfully urges the Committee to give HB 357 an unfavorable report.

Champe C. McCulloch
McCulloch Government Relations, Inc.
Lobbyist for Maryland AGC

NFIB - PTE PIT increase - HB357 (2021).pdf

Uploaded by: O'Halloran, Mike

Position: UNF

HB357

NFIB-Maryland – 60 West St., Suite 101 – Annapolis, MD 21401 – www.NFIB.com/Maryland

TO: House Ways and Means Committee

FROM: NFIB – Maryland

DATE: January 28, 2021

RE: **OPPOSE HOUSE BILL 357** – Income Tax – Pass-Through-Entity – Additional Tax

Founded in 1943, NFIB is the voice of small business, advocating on behalf of America's small and independent business owners, both in Washington, D.C., and in all 50 state capitals. With more than 250,000 members nationwide, and nearly 4,000 here in Maryland, we work to protect and promote the ability of our members to grow and operate their business.

On behalf of Maryland's small businesses, NFIB-Maryland opposes House Bill 357 – legislation that would impose an additional 4% tax on small business owners of pass-through-entities (PTEs) – specifically those that are *not* organized as a sole proprietorship.

PTEs generally consist of the following: sole proprietorship, general partnership, limited partnership, limited liability company, or an S-corporation. Those businesses organized as one of the preceding entities are overwhelmingly small business owners.

These small business owners pay "business taxes" through their personal income tax returns. According to the Tax Foundation, Maryland ranks 45th on their personal income tax rate. Additionally, it is 42nd on property tax rates.

Should the additional 4% be levied on our small business owners, the highest effective tax rate would be 12.95%. That rate would send Maryland to the bottom of the charts when it comes to business friendliness – something this legislature and administration has fought hard to improve in recent years.

NFIB strongly supported legislation last year establishing a commission to evaluate the State's current tax systems and make recommendations to ensure Maryland's tax policy is competitive with surrounding jurisdictions and encourages business growth and job creation. Our members and their workers have faced financial hardships not seen in generations because of the COVID-19 pandemic.

We encourage the General Assembly to revisit the idea of such a commission before passing legislation like HB357 which creates more of a financial web small business owners must work through to ensure they remain competitive and financially viable.

If HB357 were to pass it would send a negative message to entrepreneurs and would-be small business owners hoping to create a future for themselves, their employees and their families.

For these reasons **NFIB opposes HB357** and requests an unfavorable committee report.