



*Testimony to*

**NEW YORK STATE SENATE**

**2024 LABOR HEARING**

**WORKERS' COMPENSATION**

*Presented by*

**Frank Kerbein**

**Director, Center for Human Resources**

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Thank you for the opportunity to address this panel. My name is Frank Kerbein, Director of the Center for Human Resources with The Business Council.

As the stated purpose of this hearing is to review the “current state of workers' compensation and bring to light areas for improvement,” I welcome the opportunity to convey the sentiments of the more than 3,200 members of The Business Council - businesses of all sizes across all industries. These 3,200 + employers are representative of the state’s employers who are responsible for fully funding what is one of the nation’s most costly workers’ compensation programs.

The “Grand Bargain” that is the state’s workers’ compensation system is something the state’s employers are proud to support. And we have been fortunate to be able to negotiate important reforms with the legislature when reforms necessary for its continued success have been required.

It’s important that New York State employers be leaders in providing worker protections and security. We take very seriously our obligations to our employees in both their physical and financial well-being. While it is important to be a ‘leader’ in these areas, it is equally important that New York not become an ‘outlier.’

New York State is in a fierce competition to attract and retain employers. And it’s not going well. From our most recent ranking of 49 out of 50 in state business tax climate according to the Tax Foundation (above only New Jersey and just behind California), to the most recent US Census information showing New York leading the nation in population loss, (the state lost 101,984 people during a 12-month period between July 2022 and July 2023, a 0.52 percent decline — the biggest drop in the country by both percentage and total) – indications are that NY is losing this competition.

In addition to one of the nation’s most expensive workers’ compensation programs, New York employers currently face several challenges that contribute to the perception that New York State is not “business friendly.” They include:

- A substantial Unemployment Insurance Fund debt – NY is the only state in the nation not to commit American Rescue Plan funds to offset the significant unemployment insurance fund debt incurred by employers as a result of the government mandated COVID shutdown. Significant UI costs remain for employers and will for the next decade.
- COVID Paid Sick Leave – NY is the last state in the nation to still require employers to be responsible for replacing income lost to workers as the result of COVID. This leave is above and beyond the state’s recently implemented paid sick leave mandate.
- Pay frequency – NY employers are under siege from plaintiff attorneys looking to cash in on a wrongly decided Appellate Court decision requiring liquidated damages when a manual worker is paid bi-weekly in violation of NYS Labor Law. More than 400 employers – mostly small and medium size employers – have been forced to pay tens of millions of dollars in settlements to attorneys and employees who already had received their full wages.

I’m sure you will hear from a range of advocates today who wish to expand the class of eligible workers and increase the benefit payments to workers under the workers’ compensation program - either through the dramatic expansion of short-term disability or expansion of paid family leave. We agree that some portions of law may require modernization.

As you hear these proposals, remember there is a cost to each and every such expansion. There will be hard costs to the employers who fund these programs. Costs that will put jobs and growth at risk. There will also be costs to New York’s reputation as being a suitable place to start or grow a business.

We implore you to take all these costs into consideration and work with businesses to improve our business climate reputation and reverse the disastrous population loss plaguing our state. We look forward to working with you on the ideas proposed today.