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House File 4177-A22 (Ecklund)

Dear Chair Ecklund and Members of the House Labor, Industry and Veterans Committee,

The National Federation of Independent Business (NFIB) is the largest small business organization in Minnesota, with over 10,000 members in every corner of the state. Over 75% of our members have fewer than 10 employees and our mission is to advocate for Main Street.

Respectfully, NFIB Minnesota opposes House File 4177-A22. The bill's regulations, red tape and increased penalties will make it harder for small businesses to compete in Minnesota.

Noncompete Agreements: Rather than being pro-worker, this provision is really pro-big business. It provides a competitive advantage to larger, well-funded corporations by allowing them to continue protecting their interests through noncompete agreements while effectively prohibiting small businesses and start-ups from doing the same.

When done properly, Minnesota courts have long agreed that non-compete agreements are a valid tool for protecting legitimate employer interests such as confidential information, customer lists and specialized training. A valid non-compete must not only protect a legitimate interest, but it must also provide compensation and be limited in duration, scope of activity and geographic area. Even advocates for noncompete restrictions acknowledge that "Minnesota has a well-developed body of case law in this area that is fair to both sides."¹

By failing to incorporate this well-developed body of case law, the proposal leaves a legal vacuum that will create needless uncertainty for employers and employees alike.

Further, the provision's broad and vague definition of "covenant not to compete" jeopardizes other agreements that restrict the use of trade secret or confidential information.

Increased Building Costs. The requirement to adopt an ever-stricter energy code will increase building costs for small businesses, despite Minnesota already having one of most stringent energy codes in the country. Per advocates, this provision will ultimately result in a ban on the use of natural gas, propane, and other pipeline-based fuels in commercial buildings.

¹ Penwell, Wm. Christopher, [Business Forum, Star Tribune](#), 1/2/2020

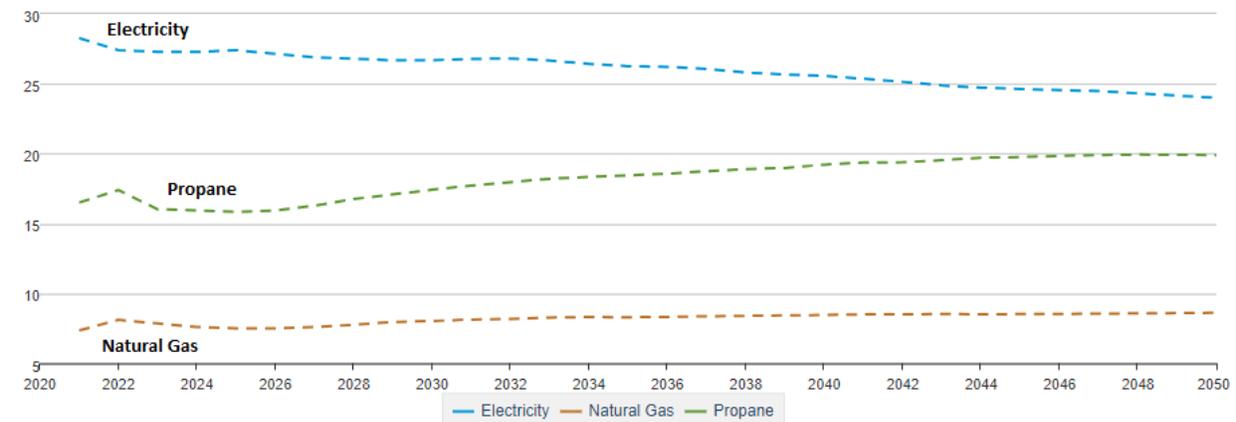
Banning natural gas or propane and forcing businesses to rely solely on electric for heating or industrial processes would lead to a staggering cost increase.

According to U.S. Energy Information Administration data, propane is roughly half the price of electricity and natural gas is nearly four times less than electricity for commercial customers on a fuel neutral cost basis.² A significant price differential will remain for decades.

Energy Prices: Commercial

Case: AEO2022 Reference case | Region: West North Central

2021 \$/MMBtu



Source: U.S. Energy Information Administration

NFIB Minnesota members – over 95% – strongly oppose fuel source bans. Small businesses need the flexibility to make the most cost-effective decisions for themselves and their employees.

Red Tape & Higher Penalties. Workplace safety is important to small employers, but penalty increases throughout this proposal are punitive and unnecessary. Additional red tape simply increases the frustration of many small farmers and Main Street businesses around our state.

Please reject the new regulations, red tape, and penalties on small employers in HF 4177-A22. Instead, help struggling Main Street businesses with UI tax relief today.

Sincerely,

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² "Annual Energy Outlook 2022, Table: Table 3. Energy Prices by Sector and Source, Case: AEO2022 Reference, Region: West North Central" U.S. Energy Information Administration, accessed March 31, 2022.