

Testimony of A Better Balance Submitted by: Jesse Workman, Senior Staff Attorney

Submitted to the New York State Legislature At the Joint Legislative Budget Hearing on Workforce Development

Re: Inclusion of Senate Bill 172 and Assembly Bill 84 in the Senate and Assembly Budget Proposals

February 24, 2025

Dear Chair Krueger, Chair Pretlow, Ranking Member O'Mara, Ranking Member Ra, Chairs Ramos and Bronson, and distinguished committee members,

A Better Balance ("ABB") is grateful for the opportunity to submit written testimony in support of strengthening New York's paid medical leave benefits through reform of its paid medical leave benefit program, Temporary Disability Insurance ("temporary disability insurance" or "TDI"), in the FY 2025–2026 state budget.

ABB is a national legal services and advocacy organization, headquartered in New York, which uses the power of the law to advance justice for workers, so they can care for themselves and their loved ones without jeopardizing their economic security. We run a free and confidential legal helpline through which we hear from thousands of workers a year, including hundreds of New Yorkers who need paid family and medical leave.

We also led advocacy efforts to pass groundbreaking work-family protections in New York State, including paid family leave, paid sick time, emergency paid sick time, pregnancy accommodations, and lactation protections. Most recently, we updated our landmark report documenting the serious problems with New York's paid family and medical leave program and proposing reforms to fix it.¹

We write to urge the legislature to include Senate Bill 172 / Assembly Bill 84 in its FY 2025-2026 one house budgets, and to prioritize the health and well-being of New York workers.

I. Introduction

We Urge the Legislature to Prioritize the Health and Well-being of New York's Workers—the Time for TDI Reform is Now.

¹Meghan Racklin, et al., The Time is Now: Building the Paid Family and Medical Leave New Yorkers Need (updated Jan. 2025), https://www.abetterbalance.org/wp-content/uploads/2025/01/The-Time-is-Now-Jan-2025-RD3.pdf.

Due to current gaps in New York's TDI law, New Yorkers are one cancer diagnosis, car accident, or difficult pregnancy away from losing their job, health insurance, and financial security. New York's TDI program provides workers who need time off to care for their own health a mere \$170 per week—and no job protection. New York's TDI benefit is wildly inequitable compared both to peer states (nearly all of which allow workers to earn over \$1,000 per week) and our state's own paid family leave benefit, which New Yorkers use to care for seriously ill loved ones and to bond with a new child (and through which workers can earn over \$1,177 per week). In New York, if your father has a heart attack, you can care for him and receive \$1,177 per week and full job protection; in comparison, if you have a heart attack and need to be out of work, you will receive only \$170 per week and no job protection.

Fortunately, S172/A84, sponsored by Senator Ramos and Assembly Member Solages, would fix this imbalance and modernize TDI. The legislation would raise benefits, protect workers' jobs, and guarantee their health insurance during medical leave. The bill enjoys broad support from unions, health advocacy groups, small business organizations, and legal services providers, including 1199SEIU, RWDSU, Teamsters, UAW Region 9, Small Business Majority, March of Dimes, the American Heart Association, the American Cancer Society, the National Alliance for Mental Illness NYS, the National MS Society, Citizen Action NY, and the Legal Aid Society, among others.²

Once a leader in the paid leave movement, New York's TDI program has fallen behind all other states with paid family and medical leave programs. In 2024, the New York Senate approved this legislation with bipartisan support, demonstrating momentum for these urgently needed reforms. In 2025, we urge the State to get the job done and ensure that New York's paid family and medical leave program is accessible, equitable, and uniform. Accordingly, we urge the legislature incorporate S172/A84 in its one house budgets—New Yorkers work hard and deserve a medical leave program they can rely on, particularly in the midst of the affordability crisis facing individuals and families across the state.

II. Key Reforms Needed to Modernize NY's TDI Program

A. New Yorkers Need a Livable Paid Medical Leave Benefit Amount.

The Need:

New York's weekly paid medical benefit ("TDI") was capped at a maximum of \$170 a week in 1989 and has not budged since. In inflation-adjusted dollars, today's TDI benefit would only have been worth some \$65 in 1989—less than half of what the legislature authorized more than 35 years ago. And today, a worker who earns New York State's average weekly wage of \$1,688 would receive a mere 10% of their weekly wages while on paid medical leave, due to the outdated \$170 cap on benefits.

In 2025, \$170 is an unlivable amount for a family to survive on anywhere in New York State. This is particularly true for low-wage workers, who are disproportionately women of color. On our legal helpline, A Better Balance routinely hears from workers in need of time off to address

² For a full list of current supporters, see Appendix A.

serious pregnancy complications, recover from chemotherapy or surgery, or receive treatment for serious mental health conditions. Many of these callers tell us they are struggling to survive on TDI, becoming food insecure or even homeless when they can no longer make rent. Others forego the medical care and time off they need because they simply cannot live on the pittance that TDI provides to New Yorkers in need.

For example, on our helpline we have heard from:

- Ruth, a janitor on Long Island, who contacted our helpline because she needed time off to recover from childbirth. She told us, "Surviving on \$170 is hard. What I make isn't anything compared to what it takes to sustain a household. So, imagine giving birth and then only receiving \$170 for 5 weeks. There needs to be a change to better support mothers. I consider it unfair when you work hard and pay your taxes, only to be told that there is little to nothing available to help you through such a significant life event."
- Delia, a domestic worker, who called our helpline because she needed time off to recover
 from surgery. She was distressed to learn that she would be eligible for only \$170 a week,
 and had no idea how she would pay her rent and other bills on such a small amount of
 money. Things got even worse when her employer laid her off—a devastating yet
 unfortunately predictable consequence of the fact that TDI provides workers no job
 protection.
- Denis, who called our helpline to ask what benefits his wife could receive while taking a two-week medical leave urged by her therapist. Her employer agreed to provide a week's worth of pay, but suggested that, beyond that, she might only be entitled to TDI benefits of \$170 per week. "That's not even going to buy us groceries for a week," Denis told us. "I'm unemployed currently and collecting unemployment and the TDI benefit is less than half of what I'm getting from unemployment, which I don't understand. It is a very detrimental thing to my family that is going to make it detrimental for my wife to take the time that she needs to get better."
- Michelle, a worker in New York City, contacted us because she was struggling with serious complications from COVID-19 and, ultimately, long-COVID. She was shocked to learn that TDI was capped at \$170 a week, an amount that would not be nearly enough to cover her rent, let alone food, utilities, and other basic living expenses. She was ultimately able to access a federal paid benefit—which has since expired—instead of needing to rely on TDI. She told us: "I was shocked that [New York's] disability benefits are so low. How do you survive on those minimal amounts? I hope TDI benefit amounts increase, to save people from being in even worse situations while they [are already struggling with] an illness."
- Bethany, a pregnant worker in New York City, reflected on the absurdity of the TDI benefit amount in today's economy. "Living on \$170 per week is unrealistic, and I believe that lawmakers can do more to address this issue," she told us. "I can barely afford to grocery shop with \$170, and I live in a low-income building with a rent of \$1,065. \$170 isn't even a month's rent. I'd need to be paid TDI for 7 weeks just to cover one month's rent. There must be more that can be done. This isn't a realistic benefit."

Countless other callers to A Better Balance's helpline have been forced to forego much-needed medical treatment and recovery because it is simply impossible to pay rent, bills, and groceries while receiving TDI.

No one struggling with serious illness, injury, or pregnancy complications should have to survive on \$170 a week. Indeed, New York's peer states provide paid medical benefits *at least* five times higher than New York's, as shown in the table below:³

Cap on weekly benefits for workers' own health (January 2025)					
NY	СТ	DE*	MD*	RI	NJ
\$170	\$981	\$900	\$1,000	\$1,070	\$1,081
D.C.	MA	СО	WA	OR	CA
\$1,153	\$1,170.64	\$1,324.21	\$1,542	\$1,568.60	\$1,681
HI	ME*	MN*	*The paid family and medical leave insurance programs in Delaware and Minnesota will begin paying benefits in January 2026; Maine, in May 2026; and Maryland, in July 2026.		
\$798	\$1,103.71	\$1,287			

Moreover, in its paid family leave program, New York already recognizes the necessity of providing workers more than \$170 a week to live on. PFL provides workers who need time off to care for a seriously ill loved one up to \$1,177 per week—a benefit nearly *seven times* that which the seriously ill workers *themselves* can receive. In other words, a worker who needs time off to care for loved one with cancer can earn almost seven times as much as the cancer patient themself—a striking inequity.⁴

New York stands alone in having such a stark disparity between its paid family leave and paid medical leave benefits. Of the other 12 states and the District of Columbia that have paid family and medical leave programs, not one of them distinguishes between family leave and medical leave in terms of the cap on benefits.

Finally, the TDI benefit amount hits pregnant workers particularly hard. Nearly 30% of New York TDI claims are pregnancy-related, including for prenatal appointments, hospital stays or mandated bedrest, and recovery from pregnancy loss.⁵ In the midst of the Black maternal health crisis, sufficiently-paid medical leave is crucial to reduce Black maternal mortality and morbidity.⁶

³ Racklin et al., The Time is Now, at 13.

⁴ *Id.* at 15.

⁵ *Id.* at 9-10.

⁶ *Id*. at 10.

The Solution:

In sum, we urge the legislature to promptly eliminate the TDI cap and synchronize the TDI benefit with PFL. S172/A84 would fix this problem, eliminating the TDI cap and bringing TDI in line with New York's paid family leave benefit.

B. New Yorkers Need a Paid Medical Leave Program That Guarantees Jobprotection and Health Insurance Continuation During Medical Leave.

The Need:

Raising the TDI benefit rate is an important element of reforming TDI, but more is necessary to ensure the program meets the needs of New Yorkers. Workers also need guaranteed job protection and maintenance of health insurance coverage in order to safely take the medical leave they need without risk to their livelihood.

Currently, TDI—unlike paid family leave—does not require employers to hold a worker's job, or continue their health insurance benefits, while they are on leave. As a result, unless they happen to be covered by another law that prohibits retaliation or termination while on leave, workers can be legally fired while they are away from work due to their own serious health condition. For too many workers, the lack of job protection is a complete barrier to using TDI and getting the medical treatment and recovery time they need.

We regularly hear from workers on our helpline who are, understandably, too afraid of job loss to take TDI—as well as those who are in fact terminated for doing so. For example:

- Rachel, a customer service representative in western New York, contacted us because she
 was struggling to get accommodations from her employer for ongoing health issues.
 Eventually, she put in a request for medical leave. She was approved to receive TDI
 benefits, but her employment was terminated the very same day.
- Delia, a domestic worker, was abruptly laid off after informing her employer she would need time off to recover from surgery and TDI. She was unable to get another job until months after recovering from the surgery, causing her significant stress, anxiety, and financial hardship.

One particularly common fact pattern we hear is from pregnant workers, who disclose their pregnancy to their longtime employer, only to be then promptly terminated or effectively pushed out of work when they attempt to take time off for their pregnancy-related health needs. These workers often struggle to find new employment due to being visibly pregnant; even if they succeed in getting hired, they are shocked to learn that they are then ineligible for paid medical and bonding leave at their new job, due to being too new an employee. For example:

• Sarah, a food services worker, had a very difficult pregnancy and experienced severe nausea. When she explained to her employer that she was struggling to work due to pregnancy, her employer told her to quit her job and reapply when she was feeling better.

TDI did not require her employer to hold her job, so she did quit, in the hopes that leaving on good terms would encourage her employer to bring her back later. (It did not.)

- Tamara, a pregnant call representative, was told she should resign to give birth because TDI did not require her employer to hold her job (and she was too new an employee to be eligible for job protection under paid family leave). Without income, Tamara lost her housing and became homeless—all while struggling to raise a newborn.
- Melanie, a pregnant social worker, told us that the lack of job protection created an impossible—and impossibly stressful—choice for her: "If my benefits don't protect my job, my boss is going to fire me. My pregnancy is high risk and I feel so sick. But I have to take care of my family, so I have to keep my job."

Indeed, the fear of termination keeps many workers from accessing the TDI benefits to which they are entitled. Low-wage workers, like those in service-sector industries, as well as Black and Latinx workers, commonly cite fear of losing their job as the reason they do not take leave or do not take sufficient leave. Black and Latinx mothers are particularly likely to be terminated after taking leave. And while some New Yorkers enjoy job protection under the unpaid federal Family and Medical Leave Act ("FMLA"), roughly 44% of workers in the private sector are not protected by the FMLA—disproportionately low-income workers and part-time workers (including those who cobble together multiple part-time jobs to make ends meet).

A medical leave program with no guarantee that one's job will be there when they return is no leave program at all. Indeed, New York policymakers clearly recognize the necessity of job protection because the State's paid family leave law entitles workers to job protection when they take leave to care for a seriously ill loved one. Again, the inequity is baffling: under New York law, a worker who takes leave to care for a spouse with severe post-traumatic stress disorder (PTSD) is guaranteed a job to return to, while their spouse struggling with PTSD is not.

Similarly, under current law, New York guarantees a worker receiving PFL benefits the right to continuation of their health insurance (if they receive health insurance through their employer); it does not guarantee the same to those taking leave for their own serious health needs. As a result, a parent who takes time off to bond with a new baby has the right to keep their health insurance, while a worker who needs leave to recover from a serious accident has no equivalent right. Without protection, many seriously ill or injured workers are forced to risk their health insurance coverage at the very moment they need it most.

The Solution:

S172/A84 fixes the problem, guaranteeing job protection and health insurance continuation to seriously ill workers who use the TDI program. It would do so on the same terms as currently provided to caregivers and new parents under New York's paid family leave law. We urge the

⁷ *Id.* at 24.

⁸ *Id*.

⁹ *Id.* At 25.

legislature to incorporate S172/A84 into its one house budgets.

C. New Yorkers Need a Paid Medical Leave Program That Allows Them to Take Leave Flexibly.

The Need:

Currently, workers are unable to use their TDI intermittently, rather than as a continuous block of leave. That means workers who need to take leave periodically to attend prenatal appointments (both generally and for complications), receive chemotherapy, or obtain outpatient treatment for mental illness or substance abuse cannot receive the paid time off they need to access intermittent appointments.

Once again, New York's paid family and medical leave program is out of step with other states on this point. Twelve of the 13 other jurisdictions with paid family and medical leave programs allow workers to take leave related to their own health needs or a loved one's health needs on an intermittent basis. It is long overdue for New York to catch up and provide the same protections.

The Solution:

S172/A84 would permit workers to take TDI intermittently. In so doing, S172/A84 would allow workers to obtain necessary healthcare for their, or their loved one's, serious health condition.

III. TDI Reform Will Benefit All New Yorkers, While Also Specifically Improving Maternal and Pregnancy Health Outcomes in New York State.

Strengthening and updating TDI, New York's paid medical leave program, will benefit all New Yorkers. The need for medical leave can happen to anyone at any time, whether it is the need to recover from surgery, a cancer diagnosis, a difficult pregnancy or birth, mental health treatment, or another serious health condition. While TDI reform will benefit all workers in New York, passage of \$172/A84 will provide particularly significant benefits to pregnant and birthing New Yorkers.

A. New York's 20 Hours of Prenatal Leave is a Positive Step but TDI Reform is Necessary to Improve Maternal and Infant Health Outcomes.

TDI reform is necessary to improve maternal and infant health outcomes and address the Black maternal health crisis in New York State. Nearly one third of all TDI claims for benefits are to address serious health conditions that arise during pregnancy or recovery from childbirth. This statistic alone points to the critical need for passage of S172/A84. Without a livable monetary benefit, pregnant workers who need time off are faced with an impossible choice between their health and the health of their pregnancy and a paycheck during a time in life when economic stability and job security are crucial.

¹⁰ Fiscal Policy Institute, Reform of New York's Temporary Disability Insurance Program and Provision of Family Leave Insurance: Estimated Costs of Proposed Legislation (2014), https://fiscalpolicy.org/wp-content/uploads/2014/06/Reform-of-NY-TDI-and-FLI-pdf.

In 2024, Governor Hochul signed legislation that requires employers to provide 20 hours of paid leave for prenatal care, separate from, an in addition to, the State's standalone paid sick time law for general health needs.¹¹ We applaud this important step towards providing pregnant New Yorkers with time off to receive necessary care and improve pregnancy outcomes. However, 20 hours amounts to less than three days of time, and does not substitute the need for paid medical leave.

While the 20 hours of prenatal leave is an important step for pregnant workers who need to take time off to rest and address health conditions that routinely arise during pregnancy, an affordable paid medical leave program is crucial. Without TDI reform, pregnant workers who are advised to take time off from work to safeguard their health and the health of their pregnancies (such as bedrest, care for complications, and recovery from childbirth), will quickly exhaust their 20 hours of prenatal leave and then be forced to make an impossible choice between their health and a paycheck and job security.

B. TDI Reform is Essential to Addressing the Black Maternal Health Crisis in New York.

Recent CDC data indicates that more than 4 out of 5 pregnancy-related deaths are preventable, a shocking statistic that makes clear more must be done to ensure that pregnant and post-partum New Yorkers are able to meaningful care for their health. ¹² Black birthing women in New York state are nearly *three times* more likely to die than white women. ¹³

Black women are also significantly overrepresented among low-wage workers, ¹⁴ and as a result, are particularly likely to be in an economically-precarious position during pregnancy and in the postnatal period—an already economically-vulnerable time for many. Without livable paid medical leave benefits, Black pregnant workers may have no choice but to compromise their health by staying at work longer than is healthy, returning to work sooner than they are ready, or putting off needed leave.

New York has a responsibility to respond to the Black maternal health crisis and take action to prevent deaths and improve overall health outcomes. Passage of S172/A84 will ensure that pregnant and post-partum workers are able to take the time off needed to take care of their health, with the stability of job security and continued health insurance. We urge the legislature to act now to ensure that pregnant workers across the state are able to take care of their health

¹¹Press Release, New York State, Governor Kathy Hochul, Governor Kathy Hochul Highlights Statewide Efforts to Improve Maternal and Infant Health (May 2, 2014), https://www.governor.ny.gov/news/governor-hochul-highlights-statewide-efforts-improve-maternal-and-infant-health.

¹² Susanna Trost et al., Ctr for Disease Control & Prevention, Pregnancy-related Deaths: Data From Maternal Mortality Review Committees in 36 States, 2017-2019 (2022), https://www.cdc.gov/maternal-mortality/php/data-research/mmrc-2017-2019.html?CDC AAref Val=https://www.cdc.gov/reproductivehealth/maternal-mortality/erase-mm/data-mmrc.html.

¹³New York State Taskforce on Maternal Mortality and Disparate Racial Outcomes, Recommendations to the Governor to Reduce Maternal Mortality and Racial Disparities (2019),

https://www.health.ny.gov/community/adults/women/task_force_maternal_mortality/docs/maternal_mortality_report.pdf; Trost et al., *supra* note 12.

¹⁴See Mathilde Roux, 5 Facts About Black Women in the Laborforce, Dep't of Lab. Blog (Aug. 3, 2021), https://blog.dol.gov/2021/08/03/5-facts-about-black-women-in-the-labor-force.

and the health of their pregnancies while maintaining economic stability. Reforms to New York's TDI program will be a vital step in improving maternal health, addressing the Black maternal health crisis, and making New York a healthier state for families.

IV. TDI Reform Will Benefit Small Businesses Across New York State.

Updating New York's outdated TDI program presents a positive opportunity to support small businesses, individuals, and families. Affording New Yorkers a medical leave program they can rely on will provide businesses with an opportunity to recruit and retain valuable employees and increase productivity without creating significant administrative burdens.

A. TDI Reform Will Help New York's Small Businesses Retain Workers, and Save on High Turnover Costs.

Turnover costs, after an employee leaves a job, exact a high toll on small businesses.¹⁵ Increasing TDI's benefit level and adding job protection and continued health insurance would allow small businesses to retain valuable employees while those employees take time to recover from temporary disabilities and serious health conditions, including many needs related to pregnancy and childbirth recovery. Without reforming TDI, however, many New Yorkers—especially those in low-wage positions—cannot afford to take leave under the program and may have no other choice but to leave the workforce, meaning costly turnover expenses for their employers. The median cost of employee replacement is about 21 percent of that employee's annual salary. By reforming TDI, many employers and small businesses will see savings and avoid replacement and turnover costs, since employees will be more likely to return to their job.

For minimum wage workers in New York, the TDI benefit only replaces roughly 27-28 percent of wages, unlivable for anyone—especially during a critical life moment. For a worker earning a living wage in New York City, the TDI benefit replaces only 14 percent of wages, and for a living wage worker in Buffalo, only 20 percent of wages. Reforming TDI will ensure that New Yorkers, especially those who struggle to make ends meet, can use the program and remain attached to the workforce while recovering from a temporary disability.

B. TDI Reform has the Potential to Increase Profitability and Employee Productivity, Benefitting the Bottom Line of Small Businesses.

Passage of S172/A84 has the potential to strengthen the relationship between small businesses and their employees, and in turn increase productivity and retention. Research shows that robust paid medical leave programs can improve employee productivity, engagement, morale, and loyalty, all of which translate to higher profits and outputs for businesses.¹⁷ Conversely, when

¹⁵ Kristl Davison, Adam Scott Blackburn, The Case for Offering Paid Leave: Benefits to the Employer, Employee, and Society, Compensation & Benefits Review Volume 55, Issue 1, January 2023, https://journals.sagepub.com/doi/epub/10.1177/08863687221131728.

 ¹⁶ Thomas P. DiNapoli, N.Y. State Comptroller's Office, Report on New York's Social Insurance Programs:
 Benchmarking Benefits, at 6 (Nov. 2024), https://www.osc.ny.gov/files/reports/pdf/social-insurance-programs.pdf.
 ¹⁷ Benjamin Bennett, Isil Erel, Léa H. Stern and Zexi Wang, Paid Leave Pays Off: The Effects of Paid Family Leave on Firm Performance, National Bureau of Economic Research (Updated Dec. 2020),
 https://www.nber.org/system/files/working-papers/w27788/w27788.pdf

employees feel pressure to go to work while sick or managing a disability, companies often pay a high cost. ¹⁸ Recent research indicates that failure to address presenteeism (going to work ill) pressures workers to show up for work despite feeling unable to fully function due to illness or injury. ¹⁹ Such presenteeism can cause significant financial risk to employers who bear the cost. ²⁰

TDI reform will allow workers managing serious health conditions to take the time they need to care for themselves and return to the workforce healthy, reducing the harmful impacts of presenteeism, improving worker morale, and providing long-term benefits to small businesses across New York.

V. Conclusion

We urge you to include S172/A84 in the FY 2025–2026 budget. New Yorkers need and deserve a modern paid family and medical leave program that meets their needs and enables them to care for themselves and their loved ones without sacrificing their economic security, health, or peace of mind. They should not have to wait for one day longer.

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¹⁸ Paul Hemp, Presenteeism: At Work—But Out of It, Harvard Business Review (Oct. 2004), https://hbr.org/2004/10/presenteeism-at-work-but-out-of-it.

¹⁹ Claire Smith, et al., Presenteeism Pressure: The Development of a Scale and Nomological Network, Journal of Occupational and Organizational Psychology, Vol. 98, Issue 1 (Sept. 2024), https://doi.org/10.1111/joop.12542. ²⁰ *Id*.

APPENDIX A



the work and family legal center

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Campaign for NYS Paid Medical Leave Coalition Participants:

Labor/ Worker Justice:

1199SEIU RWDSU

Teamsters

UAW Region 9

Worker Justice Center of NY

Freelancers Union

Laundry Workers Center

Restaurant Opportunities Centers United—NY

Long Island Jobs with Justice

Legal:

Equality New York

Family Equality

Gender Equality Law Center

Legal Aid Society

Legal Momentum

The Women's Legal Defense and Education

Fund

New York Civil Liberties Union

SAGE

Health:

Ancient Song Doula Services

American Heart Association

American Cancer Society/American Cancer

Network

Bronx Breastfeeding Coalition

Center for Independence of the Disabled, NY

National Alliance for Mental Illness NYS

#ME Action

Long Covid Justice

National MS Society

Health cont.:

New York City Breastfeeding Leadership

Council, Inc.

New York Statewide Breastfeeding Coalition,

Inc.

March of Dimes

The WIC Association of NYS, Inc. Disabled

in Action

Children:

Moms First

Citizens' Committee for Children

The Education Trust—NY

Prevent Child Abuse

New Yorkers United for Child Care

Advocacy:

Citizen Action of New York

African Communities Together

Community Service Society

League of Women Voters of St. Lawrence

County

National Association of Social Workers NY

Schuyler Center for Analysis and Advocacy

We Are Revolutionary

Families for Safe Streets

PowHer New York

Suffolk Independent Living Organization

(SILO)

Business:

Small Business Majority