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November 20, 2024

The Honorable Chuck Schumer
Majority Leader
U.S. Senate
322 Hart Senate Office Building
Washington, D.C. 20515

The Honorable Mitch McConnell
Minority Leader
U.S. Senate
317 Russell Senate Office Building
Washington, D.C. 20515

The Honorable Mike Johnson
Speaker
U.S. House of Representatives
2468 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Hakeem Jeffries
Minority Leader
U.S. House of Representatives
2433 Rayburn House Office Building
Washington, D.C. 20515

Dear Majority Leader Schumer, Minority Leader McConnell, Speaker Johnson, and Minority Leader Jeffries,

On behalf of NFIB, the nation's leading small business advocacy association, I request that Congress prioritize legislation in the lame-duck period that will provide immediate relief to small businesses nationwide.

Small businesses continue to suffer from high inflation, health care, and energy costs, pervasive workforce shortages, and a \$1.7 trillion tsunami of new regulatory costs over the last 4 years.¹ In addition over 30 million small businesses are staring at the prospect of a massive tax hike in just over one year, when vital TCJA provisions like the 20% small business tax deduction are scheduled to expire. Unfortunately, these factors have contributed to near-historically low optimism and record-high uncertainty for small businesses.²

These significant challenges cannot continue, and Congress must step up to provide relief to small businesses. Below is a list of legislative solutions Congress should prioritize during the

¹ Dan Goldbeck, Latest Cybersecurity Rule Leaves a Mark, American Action Forum, October 21, 2024, <https://www.americanactionforum.org/week-in-regulation/latest-cybersecurity-rule-leaves-a-mark/>.

² National Federation of Independent Business, *NEW NFIB SURVEY: Main Street Uncertainty Reaches All-Time High*, October 8, 2024, <https://www.nfib.com/content/press-release/economy/new-nfib-survey-main-street-uncertainty-reaches-all-time-high/>.

lame-duck period. These priorities will fight inflation, reduce energy and health care costs, increase competition, eliminate red tape, and most importantly, give small businesses breathing room to compete with larger competitors.

- **Make the 20% Small Business Tax Deduction Permanent.** In just over one year 9 in 10 small businesses will see a massive tax increase if Congress fails to act to make the 20% small business tax deduction permanent. This deduction was claimed by over 26 million small business owners in 2021³. Fortunately, the *Main Street Tax Certainty Act (H.R. 4721, S. 1706)* makes this provision permanent. Congress should pass this legislation as soon as possible.
- **Eliminate or Delay the Burdensome Beneficial Ownership reporting mandate for 32.6 million small businesses.** In July, Secretary Yellen testified that only 2.7 million of 32.6 million small businesses had complied with the new mandate. An NFIB survey found 83% of small businesses had never heard of the reporting requirements but if a business does not comply, it faces up to a \$10,000 fine and 2 years in prison. This is a major problem that could criminalize tens of millions of small business owners in less than two months. Congress should enact S. 4297 and H.R. 8147 to eliminate this burdensome and intrusive new small business mandate.
- **Enact H.R. 906, the *Right to Equitable and Professional Auto Industry Repair (REPAIR) Act*.** Independent auto repair shops are responsible for over 70% of aftermarket vehicle repair. But these shops often do not have access to vehicle data to complete certain repairs. H.R. 906 has 28 Republican and 28 Democrat cosponsors. This bipartisan legislation would ensure that independently owned auto repair shops have access to vehicle data needed to serve their communities.
- **Eliminate red tape for small businesses through bipartisan legislation like H.R. 7198, the *Prove It Act*.** In 1980, President Carter and Congress recognized the disproportionate impact of federal regulations on small businesses and unanimously approved the Regulatory Flexibility Act (RFA). The RFA sought to minimize the burdens on small businesses. However, agencies have found ways to disregard or avoid many of the requirements. In 2023, NFIB analyzed the Small Business Administration Office of Advocacy's comment letters to federal agencies and found 28 instances where agencies failed to adequately examine the economic costs of regulations.⁴ By doing so, agencies disregard the intent of the RFA, leaving small businesses subject to the one-size-fits-all regulatory environment the RFA sought to remedy. Congress should enact H.R. 7189 to ensure agencies fully account for the costs of their regulations.

³ Brandon Pizzola, EY, *Macroeconomic Impacts of Permanently Extending the Section 199A Deduction on Small Businesses*, September 2024, [NFIB.com/EYReport2024](https://www.nfib.com/EYReport2024)

⁴ Rob Smith, *The Regulatory Flexibility Act: Turning a Paper Tiger Into a Legitimate Constraint on One-Size-Fits-All Agency Rulemaking*, National Federation of Independent Business Small Business Legal Center, May 2023, <https://strgnfibcom.blob.core.windows.net/nfibcom/NFIB-RFA-White-paper.pdf>.

- **Instill competition into the credit card swipe fee marketplace.** Large banks and credit card companies continue to charge swipe fees in a marketplace that lacks real competition. This has led to artificially high swipe fees that have punished small businesses, who operate on razor thin margins. Congress should pass the *Credit Card Competition Act* (H.R. 3881, and S. 1838) immediately.
- **Reduce energy costs by enacting H.R. 1, the *Lower Energy Costs Act*.** Stubbornly high energy costs remain a significant problem for small businesses. Congress can provide long-term relief to small businesses by streamlining the slow and bureaucratic energy permitting process. H.R. 1 would also increase energy production by expediting projects, which would contribute to lowering energy costs.
- **Reject the renomination of Lauren McFerran to the National Labor Relations Board (NLRB).** In her time serving as Chair of the NLRB, Ms. McFerran has failed to be an impartial arbiter of labor disputes as required under federal law. She has consistently tipped the scales in favor of organized labor over the interests of small businesses. In doing so, the NLRB under Ms. McFerran's leadership has finalized many decisions and regulations that increase red tape, compliance costs, and uncertainty for small business owners.
- **Address unsustainable health care cost increases.** A recent survey found 98% of NFIB members are concerned by the increasing health cost burden. Congress should enact H.R. 3799, the *CHOICE Arrangement Act*, and H.R. 5378, the *Lower Costs, More Transparency Act*, to increase affordability, coverage choices, transparency, and competition in the health care system. Congress can also reduce red tape for small businesses by enacting the Employer Reporting Improvement Act and the Paperwork Burden Reduction Act.
- **Prevent unintended 1099k triggered audits.** Next year the 1099k threshold will drop to \$600. Just a year ago the threshold was \$20,000. This lower threshold may subject small business owners to costly new paperwork and I.R.S. audits. Congress should pass H.R. 190, the *Saving Gig Economy Taxpayer Act* as soon as possible, and restore the threshold to \$20,000.

With economic uncertainty near a record high, Congress must proactively provide relief to small businesses. NFIB strongly encourages Congress to prioritize these legislative recommendations to fight high inflation, energy, and health costs, reduce red tape, and increase competition.

Without Congressional leadership, small businesses will continue to suffer under this onerous economic environment. We look forward to working with you to help American small businesses grow, invest, and flourish.

Sincerely,

A handwritten signature in black ink that reads "Jeff Brabant". The signature is written in a cursive, slightly slanted style.

Jeff Brabant
Vice President, Federal Government Relations
NFIB