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February 10, 2025

The Honorable Joni Ernst  
United States Senate  
260 Russell Senate Office Building  
Washington, D.C. 20510

Dear Senator Ernst,

On behalf of NFIB, the nation's leading small business advocacy organization, I write in strong support of the *Prove It Act of 2025*. This legislation would strengthen requirements for agencies to analyze the impact of regulations and increase small business engagement in the regulatory process.

Every four years, NFIB members rank "unreasonable government regulation" as one of the top problems facing their businesses.<sup>1</sup> Unfortunately, regulatory agencies in Washington finalized an unprecedented \$1.8 trillion of new regulatory burdens over the last four years.

This tsunami of new regulations have a disproportionate impact on small businesses that do not have compliance officers or lawyers who can help them navigate new regulatory requirements. Unfortunately, this is not how Congress envisioned agencies promulgating and finalizing regulations.

In 1980, Congress and President Carter recognized the disproportionate impact that burdensome regulations had on small businesses and enacted the Regulatory Flexibility Act (RFA). The RFA requires federal agencies to analyze the impact their regulatory actions will have on small entities. The law states that when the regulatory impact is likely to be significant or affect a substantial number of small entities, federal agencies are required to seek less burdensome alternatives for the regulatory action. Unfortunately, NFIB's 2023 study examining the effectiveness of RFA found

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<sup>1</sup> Holly Wade & Madeline Oldstone, *Small Business Problems & Priorities*, NFIB Research Center, July 2024, <https://nfib.com/wp-content/uploads/2024/10/2024-Small-Business-Problems-Priorities.pdf>.

that agencies often use loopholes in the RFA to underreport, minimize, or ignore the impact their regulatory actions will have on small businesses.<sup>2</sup>

When agencies circumvent the requirements of the RFA to minimize the impact of burdensome regulations, it leaves small businesses facing the brunt of new regulatory costs. These regulatory burdens result in forgone growth and investments back into their business.

Last year, the House of Representatives sought to close the loopholes in the RFA that federal agencies have exploited or ignored by passing the *Prove It Act* with bipartisan support<sup>3</sup>.

Specifically, the *Prove It Act* would provide small businesses with the ability to raise concerns when regulators fail to consider both the direct and indirect costs of their regulations. Additionally, the legislation allows small businesses to request the Small Business Administration's Office of Advocacy to review agencies' work and ensure agencies are fully compliant with the RFA. Lastly, if an agency fails to comply with the review process, the *Prove It Act* exempts small businesses from the regulatory action altogether.

NFIB strongly supports the *Prove It Act* and urges Congress to promptly enact this legislation. Small businesses appreciate your continued leadership to reduce onerous regulatory burdens and red tape.

Sincerely,



Dylan Rosnick  
Principal, Federal Government Relations  
NFIB

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<sup>2</sup> Rob Smith, *The Regulatory Flexibility Act: Turing a Paper Tiger Into a Legitimate Constraint on One-Size-Fits-All Agency Rulemaking*, NFIB Legal Center, May 2023, <https://strgnfibcom.blob.core.windows.net/nfibcom/NFIB-RFA-White-paper.pdf>.

<sup>3</sup> Clerk of the United States House of Representatives, *Roll Call 489 | Bill Number: H.R. 7198*, December 5, 2024, <https://clerk.house.gov/Votes/2024489>