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March 13, 2020

The Honorable Nancy Pelosi  
Speaker  
U.S. House of Representatives  
H-232, The Capitol  
Washington, DC 20515

The Honorable Kevin McCarthy  
Minority Leader  
U.S. House of Representatives  
H-204, The Capitol  
Washington, DC 20515

Dear Speaker Pelosi and Minority Leader McCarthy:

On behalf of NFIB, the nation's leading small business advocacy organization, I appreciate Congress and the Administration focusing on addressing COVID-19. Small business owners are sensitive to negative impact COVID-19 will have on employees, their businesses, and the economy. Small businesses will require flexibility to deal with the uncertainty and disruption that COVID-19 will continue to cause. **Unfortunately, I write in opposition to H.R. 6021, the *Families First Coronavirus Response Act*.** This legislation would limit flexibility in adjusting to a rapidly changing environment and impose potentially unsustainable mandates on small businesses.

NFIB understands the severity and uncertainty surrounding COVID-19. An NFIB survey conducted earlier this week found that COVID-19 has negatively impacted 23 percent of NFIB members, and 43 percent of those not currently impacted expect to be affected at some point in the next three months.<sup>1</sup> However, the unprecedented expansion of the Family and Medical Leave Act (FMLA) is deeply concerning to small businesses.

Division C, the Emergency Family and Medical Leave Expansion Act, immediately expands obligations under FMLA. NFIB opposes expanding FMLA to require all employers provide up to 12 weeks of paid family and medical leave. Currently, FMLA requires businesses with 50 or more employees to offer 12 weeks of unpaid family and medical leave. Worse, this bill exempts businesses with 500 or more employees from the

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<sup>1</sup> Holly Wade, *Coronavirus Impact on Small Business*, NFIB Research Center, March 13, 2020, <https://www.nfib.com/content/press-release/economy/nfib-study-coronavirus-impact-on-small-businesses/>.

new paid family and medical leave mandate but requires all small businesses to comply. The bill contains a poorly defined waiver process through the Secretary of Labor, but that means struggling small businesses must apply for an exemption.

While the paid family and medical leave requirement sunsets one year after enactment, many small business owners simply cannot afford the cost of the new mandate at the same time as they experience increasingly slower sales.

Small businesses would be reimbursed by the federal government through refundable tax credits. Regrettably, the administrative burden attached to the credits is substantial, and the timeliness of the credits may be challenging. Businesses experiencing cash flow difficulties due to disruptions caused by COVID-19, combined with new federally mandated paid family and medical leave, may not stay afloat until the next quarterly payroll tax credit is claimed. In fact, one in five small business owners reported cash flow to be a continual problem before the outbreak of COVID-19.<sup>2</sup>

Paid family and medical leave is a benefit that all employers desire to offer. Unfortunately, some small employers simply do not have the operating budget to afford it. By requiring small businesses to shoulder additional burdens and costs, small businesses who cannot afford to keep up will close.

**NFIB opposes H.R. 6021, the *Families First Coronavirus Response Act*, and may consider the bill a Key Vote for the 116<sup>th</sup> Congress.**

Sincerely,



Kevin Kuhlman  
Senior Director, Federal Government Relations  
NFIB

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<sup>2</sup> Holly Wade, *NFIB National Small Business Poll: Cash Flow*, NFIB Research Center, Volume 13, Issue 2, 2016, [http://www.411sbfacts.com/files/NFIB\\_SBP\\_CashFlow\\_v1.pdf](http://www.411sbfacts.com/files/NFIB_SBP_CashFlow_v1.pdf).