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March 26, 2019

Dear Representative:

On behalf of NFIB, the nation's leading small business advocacy organization, I write in opposition to H.R. 7, the *Paycheck Fairness Act*. This legislation will add significant burdens to small businesses and expose them to frivolous lawsuits. **H.R. 7 will be considered an NFIB Key Vote for the 116<sup>th</sup> Congress.**

NFIB and its members believe in equal pay for equal work. However, NFIB does not believe that this legislation is the solution. H.R. 7 will make legitimate business-related pay differences difficult to defend in court, invite frivolous lawsuits against small business owners by allowing unlimited compensatory and punitive damages in equal pay lawsuits, and significantly increase small business paperwork burdens.

This legislation would make it nearly impossible for a small employer to defend against claims that an "alternative employment practice" exists and could serve the same business purpose without producing a wage differential. Even if an employer were to demonstrate that a legitimate factor such as education, training, or experience accounted for a wage differential, an employee could claim that an "alternative employment practice" existed and that the employer refused to adopt such a practice.

For example, an employee of a small, local hardware store would be able to sue an employer for refusing to adopt a business practice that a much larger company uses to address wage discrepancies. Forcing one-size-fits-all legislation on small, independent businesses puts them at a significant disadvantage relative to their larger competitors. A small business may have legitimate reasons for not adopting the practices of a large business. However, if an employee can prove that the independent business refused to adopt the "alternative employment practice" of a large competitor, the small business automatically loses the suit.

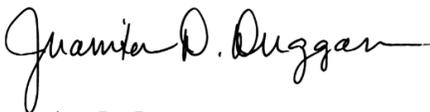
This legislation also prohibits an employer from asking a prospective employee about wage history and prohibits an employer from relying on wage history in determining wages. These prohibitions create a very difficult situation for small business owners. A person's written resume

is only one aspect of the application process; a person's salary history is another essential part of gauging professional growth and development. If the needs of a prospective employee and the wants of a business do not match, the prospective employee and the business should be able to discern this sooner rather than later to avoid wasting each party's time and energy. By eliminating salary history, the hiring process becomes less precise and more difficult for small employers.

This bill also puts significant paperwork burdens on small business owners. It requires the Equal Employment Opportunity Commission (EEOC) to issue regulations providing for collection of employers' compensation data. Most small business owners do not have a human resources department or a full-time staff member in charge of reporting and compliance. NFIB members report unreasonable government regulations as their second most important small business problem.<sup>1</sup>

**NFIB is strongly opposed to H.R. 7, the *Paycheck Fairness Act*, and will consider it a Key Vote for the 116<sup>th</sup> Congress.**

Sincerely,

A handwritten signature in black ink that reads "Juanita D. Duggan". The signature is written in a cursive style with a long horizontal flourish at the end.

Juanita D. Duggan  
President & CEO  
NFIB

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<sup>1</sup> NFIB Research Foundation, *Small Business Problems and Priorities*, August 2016