



555 12th St NW, Suite 1001
Washington, D.C. 20004

1-800-552-5342
NFIB.com

December 10, 2020

Dear Senator,

On behalf of NFIB, the nation's leading small business advocacy organization, I write in strong opposition to the inclusion of Title LXIV, *Establishing Beneficial Ownership Information Reporting Requirements* in the Conference Report to accompany H.R. 6395, the *William M. "Mac" Thornberry National Defense Authorization Act (NDAA) for Fiscal Year 2021*. This title contains the *Corporate Transparency Act*, which is unrelated to the defense reauthorization and would saddle small business owners with millions of hours of new paperwork burdens while also compromising their privacy.

The *Corporate Transparency Act* provision within the NDAA Conference Report requires corporations and limited liability companies (LLCs) with 20 or fewer fulltime employees to file new reports with the Treasury Department's Financial Crimes Enforcement Network (FinCEN) containing the personally identifiable information of small business owners and update that information periodically. When NFIB surveyed its membership concerning beneficial ownership reporting, 80% opposed the idea of Congress requiring small business owners to file paperwork with the Treasury Department each time they form or change ownership of a business.¹

The legislation imposes its reporting mandates only on America's smallest businesses, those least equipped to handle new paperwork requirements. NFIB estimates that a substantially similar version of the *Corporate Transparency Act* would saddle America's small businesses with 12.2 million new initial paperwork hours at a cost of \$531 million.² Additionally, the Congressional Budget Office (CBO) estimates that the substantially similar version would impose a significant new regulatory burden on small businesses, generating between 25 million to 30 million new reports.³ Moreover, the legislation makes it a federal crime to fail to provide completed and updated reports, with civil penalties of up to \$10,000, criminal penalties of up to 2 years in prison, or both.

This provision raises serious privacy concerns for small businesses as it establishes a first of its kind federal registry of small business owners. This bill reduces current privacy protections by allowing federal and foreign law enforcement access to business owners' personally identifiable information,

¹ When asked, "Should Congress require small business owners to file paperwork with the Financial Crimes Enforcement Network each time they form or change ownership of a business?," 80% said "no," 11% said "yes," and 9% were undecided. NFIB Member Ballot, August 2018.

² Michael J. Chow, Economic Costs to Small Businesses Due to the Corporate Transparency Act, NFIB Research Center, September 18, 2019, https://www.nfib.com/assets/NFIB_Corporate_Transparency_Act.pdf.

³ *Cost Estimate for H.R. 2513, Corporate Transparency Act of 2019*, Congressional Budget Office, September 12, 2019, <https://www.cbo.gov/system/files/2019-09/hr-2513.pdf>.

via the FinCEN database, without a subpoena or warrant. FinCEN also recently experienced a series of leaks from existing databases.⁴

Further, this provision was not included in the Senate-passed NDAA. It was not referred to the Senate Armed Services Committee. It also did not receive consideration by the Senate Banking Committee.

NFIB strongly opposes inclusion of Title LXIV, *Establishing Beneficial Ownership Information Reporting Requirements* in the Conference Report to accompany H.R. 6395, the *William M. "Mac" Thornberry National Defense Authorization Act (NDAA) For Fiscal Year 2021*. Our organization understands the importance of this legislation to the men and women of our nation's armed services. However, burdening small businesses with a new mandate in a defense authorization bill during a pandemic is the wrong policy in the wrong place at the wrong time.

Sincerely,

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

Kevin Kuhlman
Vice President, Federal Government Relations
NFIB

⁴ United States v. Natalie Mayflower Sours Edwards, <https://www.justice.gov/usao-sdny/pr/former-senior-fincen-employee-pleads-guilty-conspiring-unlawfully-disclose-suspicious>.