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May 13, 2020

Testimony on Behalf of NFIB (National Federation of Independent Business) to the Joint New York State Senate and Assembly Hearing Concerning COVID-19's Impact on Small Businesses in New York

Testimony delivered by Greg Biryła, NFIB's NY State Director

I am Greg Biryła, NY State Director for NFIB (the National Federation of Independent Business), representing thousands of small businesses across every community and neighborhood in New York and hundreds of thousands across the nation.

On behalf of our NFIB New York team and all the small businesses on the frontlines of COVID's economic disruption, we thank Chairwoman Kaplan, Chairman Stirpe, and all the legislators joining us today for this opportunity, but also the dialogue and effort we have seen from so many of you to work with organizations and memberships like ours during this unprecedented ordeal.

I'd also like to thank committee and legislative staff for the untold and unseen challenges I imagine come along with organizing and conducting a virtual live hearing with Senators, Assemblymembers, and stakeholders from across the state.

I wish all of you, your families, and your communities nothing but safety and wellbeing.

Our economy is in tatters and its small independent businesses that are in the worst shape of all. Just a few short weeks ago our NFIB office was focused on advocacy and state budget priorities. Now it serves as a counseling office and sympathetic ear for our members and small business owners across the state who have no idea what comes next for them, their families, and their employees.

Most small businesses have enough cash-on-hand to operate for about 6 weeks without new revenue.

Small business owners are less likely to have business or personal savings accounts because under normal circumstances, the wisest use of profit is reinvestment in staff, equipment, or facilities at their business.

Small businesses are also founded, and expansions are often financed, with personal loans or resources. For local businesses in New York and across the country, their lives and their family's lives are quite literally intertwined with and dependent upon the success of their business.

When we talk about local job creation and sustainable economic development. We're talking about small, independent businesses. Businesses that stabilize local tax bases, support community and charitable organizations, and make our cities, towns, and neighborhoods different and special.

About 8 weeks ago, without any ability to prepare or plan, small business owners closed their doors to commerce. They did this because public health demanded it in order to flatten the curve and give our healthcare system and workers the opportunity to confront COVID head on.

Just because something is necessary, doesn't mean you sleep easier. NFIB members and all small business owners are experiencing unprecedented anxiety and uncertainty, many of which are down to the felt.

They, like all of us, want to reopen New York's economy in a way that is safe, full, and fair.

Now, because of the actions taken by New York State, and because of the magnificent work from frontline workers, we can begin to discuss how to that's achieved.

During the initial outbreak of COVID in the United States, and furthermore when New York and the Downstate-region became the pandemic's epicenter, states took the lead in confronting the public health crisis, while economic and social support came from federal legislation through several programs.

Chiefly:

- Paycheck Protection Program loans (PPP).
- Emergency Injury Disaster Loan Program (EIDL).
- Pandemic Unemployment Compensation (PUC) and Pandemic Unemployment Assistance (PUA).

While these are federal programs, they have been lifelines for many small businesses. It's important to understand their effectiveness, where they fell short, challenges that still exist, and applicable lessons for New York State.

The Paycheck Protection Program was by far the most in-demand and attractive relief program made available to small businesses as evidenced by the crush of applications and the initial \$250 billion appropriation being exhausted in a matter of days. There were certainly problems with the construction of PPP and its execution, but for many small businesses who were able to access its funding during round one or two, it will literally make the difference between staying open and bankruptcy.

A national survey conducted by NFIB's Small Business Research Center and published last week has found that 77% of business owners nation-wide have successfully applied for PPP and 61% of loan applicants have received their loan funding.

This is a marked improvement from the program's initial rollout which included horror stories of relief designed for small businesses being gobbled up by high-end, multi-state steakhouse chains and billion-dollar sports franchises.

The same survey found that around 40% of NFIB members nation-wide have applied for the EIDL program. Only 10% have received EIDL funding.

While the PPP should continue to be improved, it has been far more effective and efficient than the EIDL program.

The single biggest problem we see now with the PPP is ensuring its recipients have clear guidance regarding its forgiveness. For most small businesses, forgiveness is essential, new debt, even with low interest, is not an option during this level of uncertainty.

This brings us to the more important part of our conversation: what can New York do to ease our reopening and ensure it is as safe, full, and fair as possible.

New York's reopening plan must be flexible, accessible, and equitable, balancing the best risk mitigation tactics with economic and operational realities for unique and individual business types. An intelligent and adaptable application of this paradigm is our best chance to simultaneously contain the virus, preserve healthcare capacity, reestablish commerce, generate wages and income, and restore revenue for state and local governments.

Improving Communication and Access to Information Critical to Small Businesses

Since NY ON PAUSE began, Empire State Development has been the de facto state agency charged with providing additional and updated guidance for businesses who are essential, seeking an essential designation, clarification regarding what type of work can be performed, and what additional safety measures are required.

Now that New York is no longer dealing with an hour-by-hour public health emergency and as more business operations return by region and industry, it is imperative to reevaluate and improve communication processes and information access between ESD, employers, and employer organizations.

The single best way to prevent and reduce confusion, friction, and discontent is to ensure that new and changing guidance relevant to businesses is clearly communicated as broadly as possible. Since the New York "On PAUSE" order has been implemented, there have been several miscommunications and contradictory messages regarding essential construction operations, landscaping, carwashes, retail, golf courses, and marinas.

As I speak, there is confusion regarding businesses planning to open on Friday in certain regions. Confusion will breed mistrust; mistrust will lead to anger and more anxiety.

We are undertaking a process that will take weeks and months. The Governor's office, the legislature, ESD, DOH, the NY Forward statewide advisory committee, regional NY Forward committees, local governments, and private businesses need an efficient process of understanding when they can open,

what is expected and required of them to ensure worker and public safety, and how to meet those expectations. This is not criticism, but a reminder that we can't be afraid to improve and adapt the process as we go.

Reopening Must Be Fair

Numerous types of industries and operations have continued to operate as "essential" since enforcement of NY on PAUSE began in March. As New York State looks to open additional sectors and operations in the coming weeks and months, best practices should be adopted wider, and on-going practices that can be easily replicated should be extended to similar business operations.

Thus far, we have seen a class of winners and losers that has at times favored large, multi-state chain retailers at the expense of small, independent businesses. Mega-retailers like Wal-Mart, Target, Home Depot, and Lowe's have been deemed essential as grocery or hardware retailers while independent garden, furniture, flooring, and clothing stores have been closed because they only sell some of the same products as their corporate competitors, creating significant hardship and market inequity for small businesses performing identical business operations.

Health and Safety Protocols Need to be Flexible:

The controlling objective should be to bring as many businesses back into operation as safe and soon as possible, balancing risk mitigation with practical and financial feasibility. Standards should be implemented industry-by-industry but also with size and consumer volume as considerations. Small businesses do not have the same financial resources or supply chain access as their corporate counterparts and cannot reasonably be expected to implement identical strategies. By nature, small businesses also serve a smaller consumer base with lower risk of community spread. These are important factors to consider.

Avoid new burdens that disproportionately negatively affect small businesses:

- Prevent significant increases in workers' compensation premiums.
- Protect Governor Cuomo's landmark property tax cap, rejecting new exclusions, and loopholes.
- Provide civil liability protection from COVID-19 claims for currently operating businesses for additional classes of small businesses as their operations are brought online.

Unemployment Insurance Concerns:

- Protect small businesses from Unemployment Insurance premium hikes by enacting [A.10297](#) (Zebrowski).
- Prevent surprise NYS Unemployment Insurance Trust Fund assessments on small businesses.

Thank you all again. I am happy to answer any questions I can and those I cannot, I will follow up on as soon as possible.