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April 23, 2020

Hon. Andrew M. Cuomo
Governor – New York State
Executive Chamber
State Capitol
Albany, NY 12224

Re: Coronavirus, New York State's Economic Revitalization, and Small Businesses

Dear Governor Cuomo,

As the nation and the world confront unprecedented and unpredictable public health, social, and economic challenges, NFIB thanks you and your administration's competent, fact-driven response to arrest the virus' spread in New York City and other parts of the State. Restarting New York's economy will require an equal measure of governmental competence, accountability, and intelligent cooperation with private sector employers.

NFIB is New York's leading small business advocacy organization representing thousands of small, independent businesses from every industry across every community and neighborhood. New York's more than 4 million businesses employ half the state's workforce and are responsible for half its GDP. Outsiders may look to Wall Street as the symbol of New York's economic might, but it is Main Street that drives regional economies, pays school and municipal taxes, creates local jobs, sustains supply chains, and defines communities.

Small businesses are existentially threatened and financially stressed like at no other time since the Great Depression. To support public health, millions of New York businesses have been forced to close their doors for reasons beyond their control with no opportunity to plan or prepare for such a shutdown. Those still able to operate as "essential" face restrictions and historically low consumer demand. These employers have, on average, one to two months of cash-on-hand to pay obligations without new revenue. Workers have been laid-off and furloughed, resources have been depleted, and personal savings have been drained to stay afloat waiting for relief.

As New York and other states focus available resources, time, and energy to contain and control COVID's public health emergency, economic relief for small businesses is being directed by the Federal government. The demand for the federal loan programs underscores the depths of

economic anxiety and hardship. A national survey conducted on April 18, 2020 by NFIB's Small Business Research Center found that:

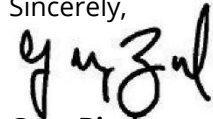
- Seventy-five percent of small businesses applied for PPP loans. Only about 20 percent of those applications have been completely processed and funded.
- Forty percent of small businesses applied for EIDL assistance. Only one percent of applicants have received funding.

While imperfect, the PPP loan program is a viable lifeline for small businesses in New York and across the country. However, Federal loan programs, even if forgiven, are only designed to sustain payroll and some fixed expenses for eight weeks. State and local municipal governments have a critical role to play in ensuring New York's economy is as safe, stable, and supportive as possible to ensure our quick and complete recovery.

As consideration pivots towards how to reopen New York's economy safe and effectively, NFIB and its members want to assist, support, and be resources for your administration, the NY Forward plan, and regional economic strategies that are beginning to take shape.

Understanding that public health, facts, and science will guide New York's economic strategy, enclosed are a broad set and of initial policy proposals compiled with the assistance and input from NFIB members to be considered now and as the situation continues to evolve. All feedback, questions, or concerns are welcome. NFIB and its members thank you and your staff for your continued leadership during these difficult times and are eager to work together with you.

Sincerely,



Greg Biryla

NFIB's NY State Director



Ashley Ranslow

NFIB's Assistant NY State Director

CC:

Hon. Carl Heastie, NYS Assembly Speaker

Hon. Andrea Stewart-Cousins, NYS Senate Majority Leader

Hon. William Barclay, NYS Assembly Minority Leader

Hon. John Flanagan, NYS Senate Minority Leader

Hon. Kathy Hochul, NYS Lieutenant Governor

Melissa DeRosa, Secretary to the Governor

Robert Mujica, NYS Budget Director

Elizabeth Garvey, Counsel to the Governor

Dr. Howard Zucker, NYS Dept. of Health

Eric Gertler, Empire State Development

William Mulrow, NYS Forward Plan

Larry Schwartz, NYS Forward Plan

Steve Cohen, NYS Forward Plan

Hon. Robert Duffy, Former NYS Lieutenant Governor; CEO, Greater Rochester Chamber

Hon. Steve Bellone, Suffolk County Executive

Hon. Laura Curran, Nassau County Executive

Hon. Bill de Blasio, New York City Mayor

Hon. George Latimer, Westchester County Executive



As public health officials and indicators guide decision making for the reopening and recovery of New York's economy by geographic regions and individual business sectors, NFIB encourages an open and accessible dialogue with state and local governments with welcomed input from the private sector.

Phased, industry-specific, and geographic economic re-start considerations:

- Allow industries primarily functioning outdoors to reopen and expand beyond essential work – landscapers, construction, car washes, pavers, builders, etc.
- Utilize geographic health data, population density, and industry transmission risks as guideposts to intelligently open parts of New York's economy when safe.
- Consider businesses with the capacity to ensure social distancing such as offices, warehouses, and low-volume retailers for opening ahead of other businesses with higher inherent risks.
- For employers with more customer or employee density, consider strategies to initially limit the number of employees/customers in confined areas and encourage the development of creative solutions to meet social distancing guidelines, including space utilization and staggering shifts.
- For businesses with limited number of individuals in their establishments at any one time, and where it is difficult to consistently remain six feet apart, allow for intensified cleaning, protective wear, and limit cash transactions.
- Allow non-essential businesses that are primarily family-based businesses, or with limited employees, and very negligible direct customer interaction to open.

Avoid new burdens that disproportionately negatively affect small businesses:

- Prevent significant increases in workers' compensation premiums. Do not allow COVID-19 to be considered a presumptive occupational illness for workers' compensation purposes. New York's Independent Compensation Insurance Rating Board (NYCIRB) indicated such a proposal would cause workers' compensation system costs to increase exponentially to over \$30 billion.
- Protect the Governor Cuomo's landmark property tax cap, rejecting new exclusions, and loopholes.
- Provide strong civil liability protection from COVID-19 claims for currently operating businesses deemed essential and for additional classes of small businesses as their operations are brought online. The Governor has taken action to provide reasonable liability protections to the state's medical professionals under Executive Order 202.10 and additional protections were granted to medical facilities as part of the budget process.
- Postpone implementation of the Farm Worker Fair Labor Practices Act.
- While increased testing capacity is an essential component for New York's public health and economic response to COVID-19. Requiring on-site medical testing to be conducted by small

businesses is not a realistic goal. The availability of supplies, cost, training, and liability concerns would add up and keep small businesses closed.

- A one-size-fits-all approach to cleaning protocols and protective equipment requirements particularly while supplies are limited, should be avoided. Small businesses are inherently more committed to the health and wellbeing of their community and customers, but requirements and guidance must recognize the limitations of independent businesses.
- State agency enforcement for any new health and labor standards must be flexible and focus on compliance rather than punishment and revenue.

State-specific actions to assist and support a smooth and complete economic recovery

- Delay for as long as possible payments of sales tax, property tax, fees, and government loans, and waive any interest and penalty assessments.
- Pass Small Business Tax Cuts, [A.6309-A/S.5954-A](#), which reduces the corporate tax rate and increases the tax deduction for pass-through entities (LLCs, LLPs, S-Corps, sole proprietors). Also consider a broader application as proposed in [S.943](#).
- Increase current state tax deductions, such as salary, wages, and other compensation as a cost of doing business, which will lower overall small business income tax bills.
- Establish an extended sales tax holiday period once retail operations have resumed to incentivize consumer spending.
- Provide cash grants and zero percent interest loans through Empire State Development or other state agencies to help small businesses pay their bills – mortgages, rent, debt service, utilities, facilities and equipment costs, insurance, money owed to vendors, payroll, etc.
- Utilize Empire State Development as a clearinghouse of information regarding new and updated executive orders; supplemental agency guidance; to-be-developed health, sanitation, safety and on-site density protocols; and all existing and future business assistance and relief information and programs.
- Develop and implement a uniform, accessible, efficiently communicated system of announcing, explaining, and enforcing all new executive orders and state directives pertaining to public health and economic recovery.
- Protect small businesses from Unemployment Insurance premium hikes by enacting [A.10297](#) (Zebrowski).
- Strictly enforce Labor Law § 593(2) to ensure that employees return to work if offered their former positions as businesses begin to reopen. This will assist workforce retention and protect the Unemployment Insurance system from fraud, waste, and abuse.
- Allow small businesses and sole proprietors licensed by the Department of State to extend the expiration of their license and suspend fees for one year for renewals.
- Grant flexibility for continuing education requirements for manufacturers, retailers, installers, mechanics, and professional service firms.
- Suspend completion requirements and penalties for non-compliance with the Workplace Safety and Loss Prevention Program.

- Use federal monies, likely to flow through the state for economic recovery, with a clear priority on those businesses most impacted by the shutdown order.
- New government spending that is not directly tied to COVID-19 recovery must be avoided.
- Allow for expansion of workplace safety programs and aid to cover materials and items used to protect employees and customers from exposure to COVID-19.

This list is preliminary and incomplete. NFIB will continue to communicate with its membership across New York State and partners in the business community to gather policy proposals and reforms that will give small businesses and New York's communities the greatest opportunity for a full, fast, and safe economic recovery.