



***Testimony to***

**Senate Committees on Economic Development, Finance,  
Agriculture, Banks and Insurance Committees**

**Assembly Committees on Small Business, Ways and Means,  
Agriculture, Banks and Insurance**

***Federal Response to the Economic Impact of the COVID-19 Pandemic on Small Business  
in New York State***

***Presented by***

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We appreciate this opportunity to provide input to these Senate and Assembly committee leaders today on the federal response to COVID-19, from a small business perspective.

Most of our members are small business, about 80 percent of our 2,400 business members employ 100 or less.

During the COVID state of emergency in New York, we have held multiple webinars and have connected with several thousand small businesses, talking about changes in federal and state labor law, talking about federal financial assistance opportunities, talking about practical labor and human resource management issues, and related topics.

Based on that feedback and our assessment of federal and state actions, I would like to address several major issues in the brief time we have today, and I welcome the opportunity to follow up with you either during the question and answer period or after this hearing.

**Payroll Protection Program**– From our perspective, the payroll protection program did what the statutory language required. The program was intended to expedite loan awards to employers to support their efforts to keep employees on the payroll.

The program was criticized for the lack of detailed eligibility criteria – a shortcoming that was not effectively addressed by regulation or guidance. As result, there has been public concern about some specific program recipients.

More important, though, is an assessment of how effective the program was in supporting New York’s small business community. Based on the US Small Business Assistance summary reports on PPP rounds one and two, a combined 231,023 New York small businesses, almost sixty percent of all of the state’s businesses with 500 or fewer employees, had received PPP loan approval through May 8, and - in one measure of the scope of its coverage - the aggregate loan amount covered about 85 percent the value of all eligible in-state payroll.

Those are fairly impressive figures, achieved in a relatively short period of time, and suggests a fairly successful program rollout, and fairly broad assistance to the state’s small business community.

**PPP Loan Forgiveness** – A major attraction of the PPP loan program is that the loan can convert to a grant if the business spends the loan on payroll and other eligible business costs, and the employer maintains its employee headcount over the eight week period following the loan approval. The amount of loan forgiveness is pro-rated if the employer retains less than 100 percent of its base period headcount. Further, only 25 percent of the loan forgiveness amount can be related to non-wage expenditures. This final factor has been raised as an issue by a number of small business, whose wage costs can be substantially less than 75 percent of monthly business costs. This provision deserves to be re-evaluated in any future legislation, based on the pace of economic recovery.

**Future Federal Legislation** – As we were completing our written testimony Tuesday afternoon, we began to see details of new federal legislation, including the House version of its “Health and Economic Recovery Omnibus Emergency Solutions,” or HEROS, act, - expansive, and expensive, fifth installment of federal assistance. While we were not able to provide any detailed summary of its key small provisions for our written testimony today, we expect that a number of issues that are being raised today are already being discussed by Congress.

Interestingly, in recent days, we have been hearing increasing concerns regarding federal unemployment insurance. As the state moves toward a phased economic reopening, we are hearing from small business that the \$600 weekly federal bonus unemployment insurance payment is acting as an economic disincentive for employees to return to work. If this proves to be a persistent obstacle to re-staffing businesses, it could limit the state’s economic recovery, and also impair an employer’s ability to meet PPP loan forgiveness thresholds, resulting in additional business hardship.

It is essential that return to work plans assure a safe workplace for employees, customers and the general public, so there should be no significant safety issues related to reopening business. As Congress is considering its next major COVID legislation, it needs to carefully consider the interplay between unemployment insurance criteria and benefit, economic recovery and job growth.

**Getting New York Back to Work** – No doubt, many New York businesses will require financial assistance to survive the COVID crisis and a phased restart of economic activity.

However, many businesses are just focused on the authority to restart and/or expand operations, with clear guidance from the state on allowable activity and required safety protocols.

The state's reopening plan should provide clear guidance on specific occupations, businesses and sectors that can expand operation with limited person-to-person exposure risks, and these criteria and procedures should be developed with significant business input.

Importantly, state approved benchmarks for business operations should pre-empt any additional municipal provisions. Variation in local measures related to public health and safety will pose significant challenges, particularly for multi-jurisdictional employers that are already dealing with challenging economic and human resource issues.

The most significant broad-based employer issue to be addressed is one of liability; the state needs to act to limit liability for employers – public, private, and nonprofit – related to COVID-19 provided they are operating consistent with applicable statutes, rules, executive orders and approved sector-specific restart plans.

Finally, as the state legislature considers actions to help employees, employers and the general public recover from the COVID crisis, we urge you to carefully consider any legislation that would impose additional costs or restrictions on business. The legislature also needs to evaluate how any state legislation would interact with recent and pending federal actions. A case in point, as detailed in the attached memo, one state proposal related to workers' compensation coverage would significantly shift costs from federal assistance programs to New York State employers.

As always, I greatly appreciate the opportunity to share our concerns and recommendations with you, and I welcome any questions you have at this time.