



**Joint Assembly Hearing on COVID-19 Impact on Small Businesses
June 12, 2020**

Testimony Delivered by Michael Kracker, Executive Director, Unshackle Upstate

Unshackle Upstate is a non-partisan, pro-economic growth, education and advocacy coalition representing job creators and taxpayers from across Upstate New York.

Our mission is to advocate for fiscally responsible policies that support a vibrant Upstate. Through controlled spending, reduced taxes, and regulatory reforms, we believe Albany can help grow the economy in communities throughout Upstate New York.

On behalf of Unshackle Upstate, I would like to thank Chairman Stirpe and the members of the legislature for the opportunity to participate in today's discussion.

As we sit here today, we can optimistically say that the worst of this public health crisis is behind us. The state is reporting the lowest number of COVID-19 cases since this pandemic first reached New York, more than 100 days ago.

Unfortunately, as the health crisis recedes, we now face a historic economic crisis that is hurting workers, businesses and communities throughout New York State. A months-long economic shutdown has left millions of New Yorkers unemployed and thousands of businesses fighting to survive - particularly small businesses.

While the most significant public health impact was concentrated downstate, the economic impact has devastated an already struggling upstate economy. A recent report from the Bureau of Labor Statistics cited Buffalo as having the eighth worst unemployment rate in the nation at 19.2 percent. Nearly every upstate region recorded unemployment rates exceeding the national average.

A [recent survey led by the Buffalo Niagara Partnership](#) highlighted some of the many challenges facing area employers during this crisis. Of the 1,800 businesses owners surveyed, 81 percent employ 50 people or fewer. Some key findings from the survey include:

- 93% of respondents experienced a decline in revenue related to COVID-19
- 2 out of 3 of businesses implemented staff changes, including reduced positions or adjusted wages/salaries
- More than 1/3 of businesses reported reducing staff through layoffs or furloughs
- 60% of businesses postponed or cancelled planned investment

These findings emphasize the dire circumstances facing Western New York employers, the overwhelming majority of which are small businesses. These challenges reflect the harsh economic reality in communities across upstate and throughout New York.

For many businesses federal support programs have been a lifeline to help them get through a state ordered shutdown of our economy. Among Western New York businesses surveyed by the Partnership, 75 percent applied, or intended to apply for federal assistance loans.

The response in Western New York is consistent with national reports. According to the NFIB Research Center, 77 percent of small businesses nationwide have applied for Paycheck Protection Program (PPP) loans. Of those who have applied, 93 percent have received the funding. The vast majority of those receiving funds report that the program has helped financially support their business.

At the end of May, the Small Business Administration reported that more than 290,000 PPP loans have been issued in New York, totaling more than \$37 billion. Recent action in Washington has provided additional flexibility to this program and extended the loan forgiveness period from eight weeks to 24 weeks.

Despite some initial challenges to the PPP program, the response from most small businesses has been largely positive. The reality, however, is that this program, and other federal support programs, are temporary.

What businesses need now is for Albany to turn their focus to New York's immediate economic recovery needs and long-term reforms to improve our state's notoriously hostile business climate.

The most immediate and impactful action the state can take to support small businesses is to get them open swiftly and safely. As of this hearing, most upstate regions sit somewhere between phase two and three. Regional health trends are improving dramatically, supporting the notion that we should accelerate the upstate reopening wherever possible. Given the seasonal nature of many upstate economies and the reality that many businesses are on their last leg, each day of closure represents a huge financial hit to businesses and communities.

The state must assist the reopening process by promptly providing clear industry guidance on reopening. Unnecessary delays have complicated the process, creating confusion for businesses and stakeholders. The early release of phase 3 guidelines was a welcome step forward. Now the state must follow up with the release of remaining industry guidelines as soon as possible – giving these industries the opportunity to get back in businesses quickly.

As businesses begin to reopen the state must also ensure they are not preyed upon by opportunistic special interests. We strongly encourage the Legislature to enact health-crisis liability protections for businesses operating in good faith and following all necessary state and federal safety guidelines. We cannot afford to let the threat of frivolous civil action threaten our economic recovery and further damage struggling New York businesses.

After enduring months of financial hardship, the last thing businesses can afford, or deserve, is additional burdens. Advancing anti-growth policies under normal circumstances is troubling,

however doing so now would most certainly cause more businesses to close their doors permanently.

One such proposal (S.8266/A.10401) would amend the workers' compensation law to provide an occupational presumption for people who contract COVID-19. As the Workers' Comp Board stated this week, employees contracting COVID-19 in the workplace already protected under workers' comp. This unnecessary proposal would provide no new benefit to employees but would most certainly increase costs for businesses and slow recovery efforts.

We have provided an attached summary of our positions on several additional policies that will impact upstate businesses. We strongly encourage you to consider these positions as these items come before during session.

While this crisis has offered unprecedented new challenges, the environment in New York has long been hostile to businesses. As we move forward from this crisis, we should take the opportunity to consider how we can do better. With New York currently ranked as the second worst business tax climate in the nation, there is significant room for improvement.

Reducing taxes, eliminating job killing mandates and improving our regulatory climate are just a few ways we can make life easier for businesses in New York. As this recovery moves forward, we encourage future conversations on ways we can build the upstate economy back better.

We greatly appreciate this forum to discuss our current economic crisis. We welcome any future opportunity to discuss how we can work together to improve the climate for businesses and grow our economy.

I would like to thank the Chairman for the invitation to participate in this forum, and the members of the legislature for their time and attention to this important issue.

With that, I am happy to take any questions you may have at this time.

Respectfully,



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Unshackle Upstate Supports the Enactment of the Following Items:

- **Enact S.8231 (Carlucci) / A.10297 (Zebrowski)**, legislation which would exclude unemployment charges caused by the impact of COVID-19 from being used to calculate an employer's experience rating. This bill will take the important step of ensuring businesses do not face higher insurance premiums because of unemployment claims caused by the COVID-19 crisis.
- **Enact S.8463 (Ortt)**, legislation that protects businesses from liability if one of their employees or customers contracts a pandemic disease like COVID-19, as long as that business has taken reasonable steps to protect employees and customers from the disease.
- **Enact S.5954-A (Kaplan) / A.6309-A (Schimminger)**, legislation that reduces the tax rate for small businesses from 6.5% to 4%. This legislation would also expand the small business exemption from 5% to 15% for certain small businesses and farms.
- **Enact S.8452 (Griffo) / A.10563 (Buttenschon)**, legislation allow for a credit to be applied on the renewal of a restaurant or bar's liquor license relative to the duration of time they were forced to cease on-premise sales as a result of the COVID-19 pandemic.
- **Enact S.8372 (Jordan)**, legislation to provide small businesses affected by COVID-19 an additional 90 days to pay certain monthly sales and payroll taxes. This proposal would help ease some of the burden on New York's small businesses, by providing them with additional time to pay their sales and payroll taxes.
- **Enact S.8373 (Jordan)**, legislation that would provide small businesses affected by COVID-19 an additional 90 days to pay certain premiums for workers' compensation insurance. This proposal would provide businesses short time relief by allowing businesses additional time to cover their insurance premiums.
- **Enact S.7354 (Kaplan)**, legislation to allow for small businesses of 50 employees or fewer to deduct the cost of their membership dues to their local chamber of commerce. Chambers and trade groups have served frontline resources for small businesses across the state during this crisis. Supporting membership in these organizations will make the reopening process more effective and expedite efforts to safely get Upstate New York back to work.

Unshackle Upstate Opposes the Following Items:

- **Oppose S.8266 (Ramos) / A.10401 (Simotas)**, legislation that includes COVID-19 as a presumptive occupational disease under workers' compensation. This unnecessary legislation would shift significant cost to the workers' compensation system, dramatically increasing premiums for New York's small businesses. A recent analysis from the New York

Compensation Insurance Rating Board determined the cost impact of this legislation to the state's workers' compensation system could be as high as \$31 billion.

- **Oppose S.8309 (Hoylman)**, legislation that would allow workers to receive unemployment insurance benefits after quitting, refusing to return from furlough or being terminated from a workplace. Businesses are eager to provide a safe environment for their customers, employees, and themselves. This type of proposal presents a false narrative of employers, will impede businesses ability to recover from this crisis and will further burden New York's unemployment insurance program.
- **Oppose S.8462 (Sanders) / A.10507 (Jacobson)**, legislation that amends New York State labor law, changing the definition of voluntary separation during the COVID-19 emergency, so that an employee who voluntarily separates from employment citing fear of exposure to COVID-19 would remain eligible to receive unemployment benefits. As cited in the authors bill memo, anyone who is fearful of contracting COVID-19 at work can quit their job and collect unemployment benefits.
- **Oppose S.8308 (Liu) / A.10437 (Rozic)**, legislation that would establish a so-called "essential workers' bill of rights". This proposal would create another layer of guidance for employers, further complicating the reopening guidance. The legislation would also dramatically increase costs for employers to reopen by imposing steep hazard pay and health and childcare obligations, ultimately stymieing economic recovery efforts.
- **Oppose S.8191 (Parker) / A.10360 (Carroll)**, legislation that prevents an individual, business or association from continuing to charge membership fees during a state disaster emergency. Chambers of commerce and trade associations have provided unprecedented support to members and non-members during this crisis. This broad legislation restricts their ability to collect membership fees that support staff and programming needs.
- **Oppose unemployment insurance trust fund assessments on businesses.** Due to state-imposed restrictions on business, more than 1.8 million New Yorkers have filed unemployment claims. To cover these claims, New York is reportedly seeking \$4.4 billion in federal loans to support the UI system. Albany must not shift those costs to struggling businesses who have already faced steep financial challenges during this crisis. *

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