



November 16, 2020

The Honorable Roberta Reardon
NYS Commissioner of Labor
NYS Department of Labor
Building 12
W.A. Harriman Campus
Albany, NY 12240

Re: Unemployment Insurance Premiums and Taxes

Dear Commissioner Reardon,

We, the undersigned organizations representing hundreds of thousands of businesses across New York State, are writing to strongly encourage you to support efforts to curb devastating increases to unemployment insurance premiums.

While some commerce has returned after state-ordered shutdowns, the economic recovery is still a long way away with tens of thousands of businesses – especially small businesses – desperately trying to survive. Even those operating are struggling with significant capacity restrictions, depressed consumer demand, declining sales, sunken revenues, and procurement of sizeable loans to pay everyday business expenses. The National Federation of Independent Business's (NFIB) nationally recognized Index of Economic Uncertainty reached 98 in October, the second highest reading in the survey's 47-year history.¹

There are close to 500,000 small businesses with employees in New York. These businesses employ half the state's private-sector workforce, nearly 4 million New Yorkers, and their production accounts for nearly half of the state's GDP. According to a recent survey by the National Federation of Independent Business (NFIB), 39% of small business owners anticipate that they will be able to operate no longer than 7-12 months under current economic conditions.² The Partnership for New York City estimates one-third of New York City small businesses will close before the pandemic passes³ and a survey by Yelp indicates that 60% of businesses that have already closed are permanently closed.⁴ These are

¹ Dunkelberg, William. "Uncertainty Hits A High Again." *Forbes*, *Forbes Magazine*, 9 Nov. 2020, www.forbes.com/sites/williamdunkelberg/2020/11/09/uncertainty-hits-a-high-again/?sh=78b70af32570.

² "Covid-19 Small Business Survey (13)." NFIB Research Center, 23-26 Oct. 2020, <https://assets.nfib.com/nfibcom/Covid-19-Small-Business-Survey-13-Web.pdf>

³ "A Call for Action and Collaboration." Partnership for New York City, Jul. 2020.

⁴ Sundaram, Anjali. *Yelp Data Shows 60% of Business Closures Due to the Coronavirus Pandemic Are Now Permanent*. 16 Sept. 2020, www.cnn.com/2020/09/16/yelp-data-shows-60percent-of-business-closures-due-to-the-coronavirus-pandemic-are-now-permanent.html.

sobering numbers for the state's economy, local communities, and our Main Streets which bring life and vibrancy to our neighborhoods.

With a long road to recovery, New York State must make every effort to limit and mitigate damaging cost increases for businesses in the months and years ahead. Right now, businesses are facing the potential of unprecedented hikes to unemployment insurance premiums as a result of the pandemic. Between March and September, the New York State Department of Labor has provided almost \$40 billion in unemployment benefits to more than 3.3 million New Yorkers, which according to DOL is over 18 years' worth of benefits in just over five months. Furthermore, New York State has already borrowed \$7.9 billion from the federal government to pay UI benefits, which will need to be repaid unless it is forgiven.

This is an unprecedented amount of money flowing out of the unemployment insurance system that simply cannot be replenished through higher premiums on small businesses.

On June 15, 2020, Governor Andrew Cuomo issued [New York State Executive Order 202.45](#) which indicates the Governor's concern regarding the potentially devastating economic impact of increased unemployment insurance taxes on employers and clear direction to the New York State Commissioner of Labor "to issue a finding related to experience rating charges as permitted by the Families First Coronavirus Response Act." This executive order has since been extended.

As a business community, we wish to be a collaborative partner with the Department of Labor, the executive branch, and legislative leaders to avoid this potential catastrophe and we strongly urge our leaders to responsibly address unemployment insurance without passing along unmanageable premium hikes to small businesses.

We recognize the potential for future federal Coronavirus relief legislation to – at least in part – address state unemployment insurance cost concerns, but our state and local economies cannot bet their futures on the possibility of federal action during such an uncertain and politically fractured environment. We recommend that the Department of Labor, Executive, and legislative leadership consider any possible approach to avoid or mitigate expected unemployment insurance premiums for the state's local businesses and job creators:

- Apply any remaining federal CARES Act funding to support New York's depleted unemployment insurance trust fund and allocate future financial support from the federal government to bolster the UI trust balance to reduce the large increases in state UI taxes. Many states across the country used a portion of their CARES Act funds to replenish their UI trust funds.
- Prevent claims for UI arising from COVID-19 to be included in businesses' experience rating charges. Countless businesses were forced to close their doors for reasons beyond their control, and most of those doors remained closed for months

as New York remained on PAUSE. As a result, revenues drastically fell or were non-existent for weeks and months. Unfortunately, this forced business owners to make very difficult decisions, including having to furlough or lay-off employees. UI tax rates are based, in part, on an employers' experience rating, which is determined by the number of employees and past unemployment claims. Businesses will see an astronomical increase in UI rates at no fault of their own if COVID-related layoffs are included as part of an employers' experience rating. Many of these small businesses have reopened under significant capacity and operational restrictions and are barely approaching profitability. Further, many multi-national corporate retailers were able to remain open during NY PAUSE under the label of "essential" while independent local retailers were arbitrarily closed. These employers do not deserve and cannot absorb higher unemployment insurance costs while their corporate competitors were able to remain in operation.

- Absent federal funding, New York should delay automatic UI tax increases and/or spread the increases out over additional years. New York State law requires an automatic tax increase if money is borrowed from Treasury for the UI Trust Fund. In other states, legislation has been approved or introduced that would delay and spread out the tax increase over several years to help alleviate the sudden and dramatic escalation in UI taxes. Increasing the wage base to spread out potential increases over a number of years and reducing the urgency of replenishing the UI trust fund is also worth consideration from the Department.

While the exact premium increases are unknown at this time, they will undoubtedly be astronomical to offset the layoffs resulting from the state-mandated shutdowns and the benefits paid due to the pandemic. In Massachusetts, businesses are facing a nearly 60% increase in UI taxes for 2021 and New Jersey is estimating that businesses will pay an additional \$919 million in UI taxes. If New York's UI tax increases mirror its neighboring states, small businesses, and employers who are already on the brink of collapse, simply won't be able to afford it. New York will see even more small businesses permanently close and more jobs permanently lost.

On behalf of businesses across New York, we look forward to working with you to ensure a full economic recovery and the loss of as few businesses as possible.

Sincerely,

**Advocacy Coalition of Rochester
Area Chambers (ACRAC)
Amherst Chamber of Commerce
Associated Builders and
Contractors, Empire State
Associated General Contractors of
New York State**

**New York Alliance For Environmental
Concerns
New York Association of Convenience Stores
New York Farm Bureau
New York State Builders Association
New York State Economic Development
Council (NYSEDC)**

Big I
Buffalo Niagara Partnership
Capital Region Chamber
CenterState CEO
Chamber Alliance of NYS
Chemung County Chamber of
Commerce
Commerce Chenango
Corning Area Chamber of
Commerce
Cortland County Chamber of
Commerce
Delaware County Chamber of
Commerce
Dutchess County Regional
Chamber of Commerce
Empire State Forest Products
Association
Empire State Restaurant & Tavern
Association
Food Industry Alliance of NY
Greater Binghamton Chamber
Greater Olean Area Chamber of
Commerce
Greater Rochester Enterprise

New York State Restaurant Association
New York State Vegetable Growers
Association
NFIB
Niagara USA Chamber
North Country Chamber of Commerce
Northeast Agribusiness and Feed Alliance
Northeast Dairy Producers Association
Northeastern Retail Lumber Association
Orange County Chamber of Commerce
Pittsford Chamber of Commerce
Rome Area Chamber of Commerce
The Business Council of New York State
The Business Council of Westchester
Trucking Association of New York
Ulster County Regional Chamber of
Commerce
Unshackle Upstate
Wyoming County Chamber of Commerce

CC: Governor Andrew Cuomo
NYS Senate Majority Leader Andrea Stewart Cousins
NYS Assembly Speaker Carl Heastie
NYS Senate Minority Leader Rob Ortt
NYS Assembly Minority Leader Will Barclay
Hon. Anna Kaplan, Chair NYS Senate Commerce, Economic Development,
Small Business Committee
Hon. Al Stirpe, Chair, NYS Assembly Small Business Committee