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New York State Joint Legislative Budget Hearing on Taxes

Testimony submitted by Ashley Ranslow, New York State Director, the National Federation of Independent Business (NFIB)

Good afternoon, I am Ashley Ranslow, New York State Director for NFIB, also known as the National Federation of Independent Business, the nation's and the state's leading small business advocacy association.

Thank you very much to Committee Chairs Weinstein and Krueger for allowing NFIB to testify today, and thanks to all of the legislators and staff who are present to listen to important perspectives regarding the FY 2023 executive budget proposal and taxation.

NFIB is a member-driven organization representing close to 300,000 small businesses across this country and nearly 11,000 across New York State.

NFIB members are the businesses that define our neighborhoods and strengthen our communities with character and value: local hardware stores, independent restaurants, florists, barbers, dry cleaners, convenience stores, farmers, roofers, landscapers, mechanics, and fitness and retail boutiques. These are NFIB members.

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. A strong, vibrant small business eco-system supports local tax bases, governments, and schools. Sixty-seven cents of every dollar spent at a local small business is reinvested into the community.

It's well established that small businesses are local job creators and the bedrock of the state's economy and our neighborhoods. As such, they should be valued and celebrated. While considering the Governor's FY 2022-23 Executive Budget proposal and

contemplating your own one-house budgets, I trust that you'll recognize the importance of small businesses and contemplate the impacts each policy will have on our local entrepreneurs.

While small businesses continue to battle unparalleled and unique challenges due to the pandemic and economic trials, challenges existed before COVID. In NFIB's 2020 Problems and Priorities report, New York small business owners ranked 75 potential business problems, with the top ten problems relating to taxes, regulations, and the cost of insurance. New York's small business owners identified property taxes as the second most burdensome problem, followed by state business income taxes as the third most burdensome problem – both higher than the national average.¹ New York State is ranked as the 49th worst state on the Tax Foundation's *State Business Tax Climate Index*. Paying the highest income taxes, eighth highest sales taxes, and third highest property taxes². New York also imposes the 9th highest gas taxes³ and applies billions of dollars of taxes on private health insurance plans utilized by many small businesses⁴. To put it simply, running a business in New York State is extraordinarily and unnecessarily costly.

Over the last decade, New York State has taken some incremental but important steps to lower taxes on businesses across our state, including tax cuts for corporations and manufacturers. Most recently, the 2011 property tax cap was made permanent in 2019; however, there is much more work that can and should be done.

Right now, we have an opportunity to provide modest relief on the other side of the balance sheet for the mom-and-pop enterprises that employ half our state's workforce. Wall Street and Main Street, "big-box" and "small-biz" are very different types of employers who face different hurdles to success. One of the policies I am advocating for today ensures that our tax code treats them as such.

Governor Hochul's Executive Budget proposal (REV Part C) includes a provision that will provide 195,000 small businesses with much-needed tax relief. Under her plan, she increases the small business subtraction modification from 5 to 15 percent of net business income or farm income and also expands the benefit to include pass-through entities with less than \$1.5 million in NY-source gross income. According to the New York State Comptroller's Office, 72 percent of small businesses are organized to pay their taxes via Article 22 and will greatly benefit from the lower tax bills.⁵

¹ NFIB Research Center, 2020 Small Business Problems & Priorities, <https://assets.nfib.com/nfibcom/NFIB-Problems-and-Priorities-2020.pdf>

² Tax Foundation, 2022 State Business Tax Climate Index, <https://taxfoundation.org/2022-state-business-tax-climate-index/>.

³ Tax Foundation, "How High are Gas Taxes in Your State?", <https://taxfoundation.org/state-gas-tax-rates-2021/>.

⁴ [Hooked on HCRA: New York's 20-Year Health Tax Habit; Bill Hammond; The Empire Center](#)

⁵ "The Economic Impact of Small Business in New York State." Office of the New York State Comptroller, March 2016. <https://www.osc.state.ny.us/files/reports/special-topics/pdf/economic-small-business-2016.pdf>.

NFIB fully supports the Governor's proposal, but we also encourage New York State to build upon her initiative. Today, I ask both houses of the legislature, Majority and Minority, to also support a bipartisan-backed solution to achieve broader tax relief for additional small businesses trying to grow and hire in New York.

The proposal I speak of already exists in bill form – S.29/A.5064 – sponsored by Senator Anna Kaplan and Assemblyman Billy Jones. Section one of this legislation reduces the tax rate for small C-corporations, which accounts for approximately 20 percent of small businesses. NFIB strongly recommends that the Senate and Assembly support expanding the Executive Budget proposal to small employers paying their business taxes via Article 9A (corporate tax), as proposed in S.29/ A.5064.

Now, I would be remiss if I did not bring attention to the glaring omission from the Governor's Executive Budget proposal – a lack of funding and no plan to address New York's outstanding federal Unemployment Insurance (UI) debt and the exorbitant UI tax bills small businesses are paying as we speak.

Currently, New York State owes more than \$9 billion to the federal government plus interest, with a UI Trust Fund that is in dire shape. As long as New York State has outstanding debt and a depleted trust fund, small businesses will pay the highest possible employer contribution rates, increased federal UI taxes, and special assessments to pay the interest on the federal advance. According to a report by the New York State Comptroller, the 2021 increase in state UI tax rates resulted in a 26.3 percent increase in tax payments for employers with the most negative account balances and a 159.7 percent increase for employers with the most positive account balances. To put this in perspective, for a business with 25 employees and a negative account balance, the annual taxes increased by \$6,295 or \$251.80 per employee, and for a business with a positive account balance, the annual taxes increased by \$4,455 or \$178.20 per employee. When compared to the contributions made in 2020, total state and federal UI taxes will increase by 30.5 percent in 2022 and by 45.4 percent in 2025 for New York small businesses paying the higher rates, while small businesses paying the lowest rates will see their total tax rates increase by more than 182 percent in 2022 and by almost 254 percent in 2025.⁶ These are substantial cost increases at a time when small businesses are still facing significant challenges stemming from the pandemic with no federal financial aid or grant programs available as a lifeline. Additionally, these taxes will continue to increase as the taxable wage base grows and special assessments will be applied beginning in 2022.

While the Senate unanimously passed S.6791-A, which restores state UI taxes to pre-pandemic levels for two years, an initiative NFIB supported, this is short-term temporary tax relief; it does not address the UI Trust Fund crisis. The only way to

⁶ "Unemployment Insurance Trust Fund: Challenges Ahead." Office of the New York State Comptroller, September 202. <https://www.osc.state.ny.us/files/reports/pdf/unemployment-insurance-trust-fund.pdf>.

solve this crisis is to use billions in federal aid or state surplus revenue to restore the UI system. NFIB urges the Legislature to commit to at least \$2.5 billion in unspent ARPA funds or other state resources to help restore the UI system by:

- Offsetting the tax reduction in S.6791-A to ensure the UI trust fund receives proper funding;
- Paying any interest payments due on New York State's federal UI program advance for calendar years 2022 and 2023, which will delay the application of special assessments;
- Offsetting any increase in net FUTA taxes applicable to New York employers for calendar years 2022 and 2023; and
- Making a significant payment towards the outstanding federal advance.

Maintaining the status quo and passing enormous UI tax bills onto small business owners is not a sustainable solution. The UI Trust Fund crisis is a result of a state-mandated shutdown, capacity restrictions, and other public policy decisions, not employer actions; consequently, New York State has the responsibility to address this issue. Replenishing the UI Trust Fund should not and cannot solely fall on the backs of small businesses which have already suffered immense financial harm. New York State should join 32 other states that have used federal aid to restore their UI systems by allocating substantial funding in this year's budget. Delaying action will continue to exacerbate this crisis, dragging down Main Street's and our state's economic recovery.

While addressing New York's UI Trust Fund crisis and providing meaningful small business tax relief are our top priorities in 2022, the Governor's proposal includes several additional tax cuts and credits supported by NFIB, including:

- Accelerating the middle-class tax cut (REV Part A);
- Enhancing tax credits for farmers (REV Part B);
- Creating a tax credit for small business COVID-19-related expenses (REV Part E); and
- Extending the hire-a-Vet credit for three years (REV Part H) and extending the workers with disabilities tax credit for six years (REV Part Q).

Many of these tax cuts and credits are valuable programs and tax relief measures utilized by small businesses across New York State; however, the Governor's proposal to extend the Film Tax Credit for three years (REV Part M) is an extremely expensive and wasteful program that has gone on far too long. The film production tax credit cost New York State \$465 million in 2020 alone – a massive amount of money that goes to Hollywood film production companies rather than small businesses right here in our neighborhoods. With the relatively good health and vitality of the film production and distribution industry and the negligible long-term economic impact of this program, the

Film Tax Credit program should be suspended indefinitely, and its budget appropriation used to support programs to support small business recovery.

Supporting small businesses and advancing policies that foster growth, job creation, and investment supports all New Yorkers and every community across our state. Small businesses continue to face truly unprecedented challenges with no end in sight. Nearly two years after the arrival of COVID-19, many small businesses never made up the losses incurred while now facing severe labor shortages, supply chain disruptions, rampant inflation, increased labor costs, and higher UI tax bills. These challenges have led to a continued pessimism about future economic conditions. In NFIB's latest COVID-19 Small Business Survey, 63 percent of small businesses have not seen their sales volume return to pre-COVID levels and 66 percent anticipate that their local community will not return to pre-crisis level of economic activity until sometime in the second half of 2022 or later.⁷ The current economic environment is unsustainable for small businesses, the state's economy, local communities, and our Main Streets which bring life and vibrancy to our neighborhoods. As New York's economy looks towards recovery, now more than ever, small businesses are in desperate need of substantial tax relief and a partner in state government that will address the UI crisis. This is New York's opportunity to demonstrate that it stands with small businesses, not in the way of them to rebuild from the devastation of the pandemic and thrive for years to come.

I sincerely appreciate the opportunity to testify and thank you for your time and attention.

⁷ "Covid-19 Small Business Survey (21)." NFIB Research Center, January 2022. <https://assets.nfib.com/nfibcom/Covid-19-Survey-21.pdf>.