

1 BEFORE THE NEW YORK STATE SENATE FINANCE
AND ASSEMBLY WAYS AND MEANS COMMITTEES

2 -----

3 JOINT LEGISLATIVE HEARING

4 In the Matter of the
5 2016-2017 EXECUTIVE BUDGET
ON TAXES

6 -----

7 Hearing Room B
8 Legislative Office Building
Albany, New York

9 February 2, 2016
10 9:48 a.m.

11 PRESIDING:

12 Senator Catharine M. Young
Chair, Senate Finance Committee

13 Assemblyman Herman D. Farrell, Jr.
14 Chair, Assembly Ways & Means Committee

15 PRESENT:

16 Senator Liz Krueger
Senate Finance Committee (RM)

17 Assemblyman Robert C. Oaks
18 Assembly Ways & Means Committee (RM)

19 Assemblywoman Sandy Galef
20 Chair, Committee on Real Property Taxation

21 Senator John J. Bonacic

22 Assemblyman John T. McDonald III

23 Senator Martin Golden

24 Assemblyman Gustavo Rivera

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 Taxes
 2 2-2-16

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4
 Assemblyman Edward C. Braunstein
 5
 Senator Phil M. Boyle
 6
 Senator Diane Savino
 7
 Assemblyman Raymond W. Walter
 8

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1 CHAIRMAN FARRELL: Good morning.

2 Today we begin the seventh in a series
3 of hearings conducted by the joint fiscal
4 committees of the Legislature regarding the
5 Governor's proposed budget for the fiscal
6 year 2016-2017.

7 The hearings are conducted pursuant to
8 Article 7, Section 3 of the Constitution, and
9 Article 2, Section 31 and 32A of the
10 Legislative Law.

11 Today the Assembly Ways and Means
12 Committee and the Senate Finance Committee
13 will hear testimony concerning the budget
14 proposal for taxes.

15 I've been joined by Assemblyman Oaks
16 and Assemblywoman Galef. And I will now ask
17 Senator Young to introduce her members.

18 CHAIRWOMAN YOUNG: Thank you, and good
19 morning. And thank you, Chairman.

20 We've been joined on the Senate side
21 with Senator Liz Krueger, who is ranking
22 member on the Senate Finance Committee; also
23 Senator John Bonacic, Senator Marty Golden,
24 and Senator Gustavo Rivera.

1 CHAIRMAN FARRELL: Good morning, and
2 welcome. The New York State Department of
3 Taxation and Finance, Jerry Boone,
4 commissioner.

5 Good morning, Commissioner.

6 COMMISSIONER BOONE: Good morning,
7 Chairman Farrell. And good morning,
8 Chairwoman Young, and to all the members of
9 the Senate Finance and Assembly Ways and
10 Means Committees.

11 As the chairman said, my name is Jerry
12 Boone. I am the commissioner of Tax and
13 Finance. It is my pleasure to appear before
14 you today to discuss Governor Cuomo's 2017
15 Executive Budget and, more specifically, how
16 the budget relates to the work that we do at
17 the Tax Department.

18 Governor Cuomo's Executive Budget
19 continues the progress we have made over the
20 past five years to change the direction of
21 the state. Together we have produced five
22 consecutive on-time budgets limiting growth
23 in state spending to an average of just
24 1.4 percent, the lowest rate of growth in

1 decades. Our fiscal constraint has provided
2 us with the means to provide much-needed tax
3 relief.

4 Over the past five years we have made
5 historic progress in reducing tax burdens for
6 all New Yorkers. We have tackled our state's
7 most burdensome tax, the property tax. We
8 have capped, frozen, and provided direct
9 relief through the enactment of a property
10 tax cap, freezing the growth of property
11 taxes and, in 2016, providing direct property
12 tax reductions through a new property tax
13 relief credit. These programs are estimated
14 to save the average property taxpayer \$2,800
15 by 2017.

16 We have enacted the lowest
17 middle-class tax rates in 60 years,
18 eliminated the MTA payroll tax for over
19 700,000 small businesses, eliminated the
20 corporate tax for manufacturers, provided
21 tax-free areas for small businesses under the
22 START-UP NY program, and undertaken the most
23 important reform of the corporate income tax
24 in 70 years. Governor Cuomo's proposed

1 budget would add to these accomplishments,
2 providing an additional \$600 million in
3 direct tax relief.

4 Small businesses represent 43 percent
5 of all private-sector jobs in New York. To
6 enhance the competitiveness of this sector,
7 we have already taken actions that will save
8 small businesses \$3.8 billion over the next
9 five years. The Executive Budget builds on
10 this record with initiatives that will
11 provide \$1.5 billion in additional tax relief
12 to 1 million small businesses over five
13 years, including lowering the corporate
14 income tax rate, increasing the income
15 exclusion for farmers and for sole
16 proprietors, and making the income exclusion
17 available to small businesses structured in
18 other ways.

19 Recognizing the additional costs borne
20 by commuters, businesses, and farmers who
21 rely on the New York State Thruway, the
22 Governor is proposing a tax credit that would
23 relieve the burden of Thruway tolls by
24 50 percent, and fully offset the cost to

1 farmers.

2 Together, our efforts to promote
3 New York's burgeoning craft beverage industry
4 have been enormously successful: the number
5 of farm wineries is up 60 percent, and the
6 number of craft breweries is up over
7 233 percent. The budget includes additional
8 proposals that should save the craft beverage
9 industry \$3 million annually.

10 Before I conclude, I wanted to briefly
11 discuss the operations side of the budget.
12 The Tax Department has been recognized as a
13 leader in leveraging technology and data
14 analytics to drive efficiencies, improve
15 services to taxpayers, and to protect state
16 and local revenue. Taxpayers now expect to
17 be able to conduct business with us online.
18 Over 2.7 million taxpayers, including
19 1 million businesses, have opened online
20 services accounts that offer over 80 separate
21 services. For the most recent processing
22 year, over 92 percent of all personal income
23 tax returns were e-filed, and e-filing is
24 becoming the standard in the other major

1 taxes as well. These efficiencies allow us
2 to process over 26 million returns and
3 collect over \$100 billion a year in revenue
4 with a reduced workforce.

5 We are mindful, though, of the need to
6 remain vigilant. The Tax Department has made
7 major investments in data analytics and
8 cybersecurity, placing us at the forefront of
9 fraud detection in tax administration
10 worldwide. In the last year alone, our
11 systems identified some 291,000 suspect
12 refund claims, saving the state and taxpayers
13 over \$500 million -- that is, before
14 \$500 million went out the door.

15 While many other states will be
16 delaying refunds this year in an effort to
17 combat identity theft, New York uses
18 sophisticated fraud prevention systems that
19 will allow us to process refunds without such
20 delays.

21 However, we cannot simply rest on our
22 laurels, which is why this budget continues
23 our investments in cutting-edge technology
24 solutions.

1 Again, I want to thank all of you for
2 allowing me to appear before you today to
3 discuss the Governor's important initiatives,
4 and I am happy to answer any questions that
5 you might have.

6 CHAIRMAN FARRELL: Thank you very
7 much.

8 We've been joined by Assemblyman
9 McDonald and Assemblyman Braunstein.

10 To question, Assemblywoman Galef.

11 ASSEMBLYWOMAN GALEF: Thank you very
12 much.

13 I have two questions for you, one of
14 which is on the operational side. We are --
15 I guess people throughout the State of
16 New York are experiencing a check coming to
17 their door through the property tax freeze
18 check. I just wondered operationally when
19 that is going to be concluded. I know not
20 everybody has gotten the check. Do you have
21 a goal as to when we can find that that's
22 happened?

23 COMMISSIONER BOONE: Happy to respond
24 to that. Where we are in the process is that

1 we have issued over 1 million tax credit
2 checks. And we expect to conclude the
3 process by the end of this month, February.

4 ASSEMBLYWOMAN GALEF: Okay, thank you.

5 And secondly, there had been
6 operationally attributed to your department
7 the issue of BOCES and looking at capital
8 costs. I think it was an oversight when we
9 developed the property tax cap and forgot
10 about the capital activities that were
11 occurring at BOCES, but not in the individual
12 schools. And so our school districts are
13 finding that BOCES capital, which they have
14 to pay for, is outside -- it's attributable
15 to their tax cap.

16 And I believe your department, as --
17 you weren't here then, but we passed
18 legislation in June to -- well, I guess we
19 asked you to, but we must have a conclusion
20 on this so that -- you're supposed to put
21 together a parameter of how our school
22 districts are supposed to handle this. And
23 this is really important to get done before
24 the schools have a budget out for the public

1 to vote on. And important to the capital
2 costs for BOCES.

3 COMMISSIONER BOONE: Yes, we are
4 reviewing the impacts of potential changes on
5 municipalities, school districts and, most
6 importantly, taxpayers. That's where we are.
7 We're in that review process.

8 ASSEMBLYWOMAN GALEF: Right. I don't
9 think that really answers the question. But
10 maybe you can get back to me with specifics,
11 because I think we directed you to put
12 together a policy that would allow our school
13 districts to exclude the capital costs for
14 BOCES in their tax cap. And that's really
15 important.

16 Unless you're saying what we passed
17 last year or your department concludes that
18 what we passed last year, we didn't mean to
19 pass. So I think we have to have something
20 before us in the next few weeks to help our
21 school districts who are going out for a vote
22 and really tight on the tax cap this year.
23 We thought we corrected the problem, so we
24 just want to be sure it is corrected. That's

1 all.

2 COMMISSIONER BOONE: Okay, thank you.

3 CHAIRMAN FARRELL: Senator?

4 CHAIRWOMAN YOUNG: Thank you,
5 Assemblyman.

6 Our first speaker -- and by the way,
7 welcome, Commissioner Boone. It's great to
8 have you here today, and especially to
9 discuss these matters that are so incredibly
10 important to all the people of New York
11 State. We as legislators hear about taxes
12 and the tax burden and so on every single
13 day, so it's great to have this dialogue this
14 morning.

15 I'd like to introduce my colleague
16 Senator John Bonacic, who has some questions.

17 SENATOR BONACIC: Commissioner Boone,
18 good morning.

19 COMMISSIONER BOONE: Good morning.

20 SENATOR BONACIC: You and I had a
21 brief discussion before we started this
22 hearing. My question is -- and I don't think
23 you can answer this question today; it might
24 require a little research.

1 But Part Z of the Revenue Article 7
2 bill proposes the elimination of all local
3 sales tax on aviation fuel. Now, I have
4 several airports in my Senate district, and
5 we have Stewart Airport in Orange County.

6 It's my understanding that this cost
7 estimate of what's going to be lost will be
8 about \$4 million. Do we have a breakdown as
9 to how much this will hit each county in our
10 state? And was any consideration given to
11 holding the counties harmless for this loss
12 of revenue.

13 COMMISSIONER BOONE: With regard to
14 the specific breakdowns, yes, I would have to
15 get back to you on that.

16 SENATOR BONACIC: Yes, I understand
17 that.

18 COMMISSIONER BOONE: But I'm aware of
19 the general issue. The general issue is that
20 the Federal Aviation Administration, part of
21 the U.S. Department of Transportation, has a
22 requirement that taxes on general aviation
23 fuel -- and that excludes a lot of other
24 fuels that are used for aviation purposes --

1 but that those taxes be dedicated for airport
2 infrastructure improvements. And we have
3 some reckoning to do with respect to this
4 provision now being enforced. It goes back,
5 I believe, to the late 1980s -- 1987,
6 thereabouts.

7 And so to the extent that those
8 taxes are being collected, they are to be
9 dedicated for infrastructure improvements,
10 and that -- so there are conditions on
11 federal grants that makes this necessary to
12 correct the situation. So there is
13 legislation proposed to do that, to eliminate
14 that tax.

15 However, with regard to how it breaks
16 out in terms of economic impact on various
17 counties, we'd have to get back to you on
18 that.

19 SENATOR BONACIC: All right. Thank
20 you, Commissioner.

21 CHAIRMAN FARRELL: Thank you.

22 CHAIRWOMAN YOUNG: Thank you.

23 CHAIRMAN FARRELL: Assemblyman Oaks.

24 ASSEMBLYMAN OAKS: Yes, Commissioner,

1 good to see you this morning.

2 I just have some questions related
3 to -- I know that there's a proposed tax
4 reduction for small businesses in the
5 Governor's proposal. Do we have a number of
6 businesses that are going to be impacted by
7 that?

8 COMMISSIONER BOONE: Well, we know
9 that this tax cut -- in total, \$300
10 million -- will save more than 1 million
11 small businesses, \$1.35 billion over five
12 years. So we have that information.

13 ASSEMBLYMAN OAKS: And do we know how
14 many of them are businesses that are filing
15 under their own personal income tax, of those
16 over 1 million, or using corporate franchise
17 tax?

18 COMMISSIONER BOONE: I do not have
19 that breakdown in my head, but we can work on
20 providing that to you.

21 As you recognize, Assemblyman, under
22 the various structures that are available,
23 whether it's LLCs or partnerships or
24 S corporations, there are opportunities for

1 that income to be recognized on individual
2 tax returns. So there's --

3 ASSEMBLYMAN OAKS: Is that clear to
4 the department when they get it, that that
5 is -- you're asking for that, you know, to be
6 treated in that way?

7 COMMISSIONER BOONE: Yes. I mean, it
8 would be identified in the various forms that
9 you would file, income that's attributable to
10 those arrangements.

11 ASSEMBLYMAN OAKS: In your remarks you
12 mentioned that you process 26 million
13 returns. So I know we have fewer than
14 20 million people. So do we have a breakdown
15 of how those returns are individuals and
16 other types of returns?

17 COMMISSIONER BOONE: We do. Broadly
18 speaking, about 11 million of the 26 million
19 would be attributable to individual personal
20 income tax returns.

21 And I thought you were going to ask me
22 how can we process 26 million returns with
23 the number of employees that we have, and --

24 ASSEMBLYMAN OAKS: That's fair. I'll

1 ask that.

2 (Laughter.)

3 COMMISSIONER BOONE: Thank you. It
4 gives me an opportunity to commend my fine
5 staff. I have a highly engaged, committed
6 staff, so it's the marriage of talent and
7 technology that enables us to process that
8 volume as quickly and as seamlessly as we do
9 it.

10 ASSEMBLYMAN OAKS: Your remarks also
11 on protecting tax filers in New York, after
12 having an experience with the federal
13 government personally, I appreciate any
14 systems that you have -- because it is a
15 clear issue, and it's a matter of obviously
16 fraud and loss of revenue to the state.

17 Assemblywoman Galef mentioned about
18 the rebate checks. You said you've sent out
19 about a million. How many more -- you said
20 you want to be done by the end of this month.
21 How many more are there to come yet?

22 COMMISSIONER BOONE: Well, we're
23 slightly over 1 million. And we certainly
24 have a light number to go. But we are

1 sufficiently queued up and -- you know, keep
2 in mind what was different this year was that
3 we had the requirement that the
4 municipalities and other local governmental
5 entities provide their information with
6 regard to the freeze. And that's, you know,
7 over 4,000, some 4,100-plus jurisdictions
8 when you factor in the towns and villages,
9 the counties, the cities, the fire districts
10 and other various special districts.

11 And we started early in engaging those
12 districts, because we knew it would be a
13 fairly mammoth challenge. And we had good
14 cooperation, but nonetheless, when you have
15 over 4100 different jurisdictions with all
16 that different data set -- and understand,
17 we're wired to be very pristine about data,
18 as we should be, as the tax collector,
19 revenue collector for New York State. So we
20 have brought, you know, great scrutiny and
21 interactive communication with those
22 districts to assure to our best ability that
23 the data is accurate. And that's what has
24 taken the amount of time that has transpired.

1 ASSEMBLYMAN OAKS: Thank you,
2 Commissioner. I'll come back a little later.

3 CHAIRMAN FARRELL: Thank you.
4 Senator?

5 CHAIRWOMAN YOUNG: Next we'll have
6 Senator Krueger.

7 SENATOR KRUEGER: Good morning,
8 Commissioner.

9 COMMISSIONER BOONE: Good morning,
10 Senator.

11 SENATOR KRUEGER: So actually the lack
12 of people here means I'm going to take
13 multiple rounds with whoever is left. So I
14 have --

15 CHAIRWOMAN YOUNG: The clock is
16 ticking, though.

17 (Laughter.)

18 CHAIRMAN FARRELL: As long as they're
19 this way, we can give up and just redo this,
20 recycle the --

21 SENATOR KRUEGER: Thank you, Denny. I
22 appreciate that.

23 CHAIRMAN FARRELL: Based on the crowd
24 here.

1 (Laughter.)

2 SENATOR KRUEGER: So several years
3 ago, I think to the end of 2013, there was a
4 release of reports by the Governor's Tax
5 Commission making a series of recommended
6 changes in the tax code of New York State. I
7 don't really see any of those changes per se
8 in the Governor's proposal this year. Is
9 there an ongoing process where your
10 department is actually following up on any of
11 the recommendations from those reports?

12 COMMISSIONER BOONE: Yes. During my
13 first seven months in the role, I sought to
14 become fluent in the various proposals and
15 engage with the various stakeholders, from
16 businesses to practitioners to academics and
17 citizens, with regard to other tax areas that
18 were addressed in the report, in the
19 commission report that you refer to.

20 As you know, we have a major success
21 in terms of corporate tax reform as a result
22 really of collaboration among all the
23 different parties. Certainly the business
24 corporate community, the Tax Department,

1 other interested parties, this body. And
2 that's what made it work, quite frankly, was
3 that collaborative effort.

4 As you know, any time we seek to
5 address reforms with taxes, it calls into
6 play a lot of issues. Our tax system has
7 become attenuated in many ways as we have
8 nuanced it over time. So any reform of that
9 raises a lot of questions in various affected
10 stakeholders' minds. So it is an arduous
11 process to work through that.

12 But I think corporate tax reform
13 demonstrates the best way to do that is
14 through interactive engagement of the
15 regulated industry. So that's something that
16 we are looking at.

17 SENATOR KRUEGER: So one of the
18 largest business tax credits in our tax code
19 is the Investment Tax Credit, ITC, with
20 approximately \$1.3 billion of unused,
21 carried-forward credits. And one of the
22 recommendations in the report was to actually
23 allow ITC credits only for job creation, as
24 opposed to the eligibility companies take

1 now.

2 Have you looked into that any further
3 than the report recommendation?

4 COMMISSIONER BOONE: Well, again, this
5 is all within, you know, active consideration
6 by our policy department. But with regard to
7 tax credits, if I'm understanding the thrust
8 of your question, our role really is to
9 administer those. I mean, we're not the
10 substantive body, if you will, that provides
11 the programmatic application of the credits.
12 We certainly work with those entities, but
13 our job is to actually provide the
14 administration of the credit as it is -- as
15 they are provided for.

16 SENATOR KRUEGER: But you do
17 evaluations of I guess the amount of the tax
18 credits that are drawn down, right? That's
19 part of your mandate?

20 COMMISSIONER BOONE: Yes.

21 SENATOR KRUEGER: And in these reports
22 there was a recommendation to actually have
23 you better evaluate the effectiveness of
24 those tax credits. So if I'm hearing you

1 right, you don't think it's your department's
2 mandate to evaluate the effectiveness of the
3 credits, simply the dollar number that's
4 being drawn down on a credit?

5 COMMISSIONER BOONE: No, let me try
6 and be more precise. It really depends on
7 the credit. So there are different
8 considerations relative to different credits
9 in terms of what the Tax Department role is.
10 So I don't want to be categorical in my
11 response. I'd have to talk about the
12 particular credit that is of concern.

13 SENATOR KRUEGER: So after this
14 hearing we're going to have the economic
15 development hearing and people will have
16 questions about the various economic
17 development programs. Most of them have some
18 kind of tax credit or exemption attached to
19 them.

20 And I've already had this conversation
21 with EDCS where I say, you know, how do you
22 evaluate really how much is being drawn down
23 and whether they've met the standards? And
24 they always say, Well, it's a catch-22

1 because they file their taxes, and the Tax
2 Department is the only one who would know how
3 much they're specifically drawing down in a
4 tax credit or exemption.

5 But my question is, do you actually
6 evaluate or audit in some way these programs
7 to see whether the companies that are drawing
8 down these credits and exemptions that may
9 have been categorized under our economic
10 development programs, that they're meeting
11 the standards? Do you have a subdivision of
12 your audit department that evaluates that?

13 COMMISSIONER BOONE: Senator, again,
14 it's going to depend on the credit, the
15 extent of our substantive assessment of
16 compliance. But we're looking to see, in
17 concert with the administering programmatic
18 agency, whether the claimant has met the
19 criteria for that particular credit. And
20 that largely would be the judgment of the
21 substantive agency, the programmatic agency
22 that has responsibility.

23 The other challenge in terms of
24 trace-back, if you will, you know, it depends

1 on the formation of the taxpayer, the filer.
2 I mean, you know, is this a pass-through
3 entity or is it a direct tax entity that's,
4 you know, involved?

5 So it gets a little bit complicated to
6 actually know, to make the attribution, if
7 you will, around the claimant, if you will,
8 to trace that back with any -- or to, I
9 guess, provide any precision around that.

10 But if you have concerns about, you
11 know, certain credits, we'll be happy to take
12 a look.

13 SENATOR KRUEGER: The Governor is
14 changing the STAR program from a rebate check
15 to deductions that individuals will take off
16 of their taxes. Would you explain, from your
17 perspective, how that will impact the program
18 and how it impacts your agency's role in this
19 program?

20 COMMISSIONER BOONE: Sure. Well, if
21 I'm -- again, to make sure I understand your
22 question that you're making reference to, I
23 think what you're referring to is the
24 conversion of STAR as it's currently applied

1 to an income credit. Right? And this is a
2 gradual transition. Let me make that clear,
3 because there's been some concern about
4 impact, if you will, on the program.

5 The thought process is to shift it
6 from being addressed through reimbursement,
7 if you will, to the school district to have
8 the individual homeowner receive that same
9 benefit -- there's no diminution of
10 benefit -- through their income tax, personal
11 income tax return by claiming a credit. So
12 there's a timing shift, but the value of the
13 benefit, the credit, is not diminished in any
14 way. And it only happens upon transfer of
15 property, if you will. So if someone buys a
16 home or sells a home, upon that transfer,
17 then the new owner, if you will, will be
18 subject to availing themselves of the income
19 tax credit process.

20 So for most homeowners, there's no
21 change.

22 SENATOR KRUEGER: So what is your
23 agency's estimate of how many years it will
24 take for this transition to be complete?

1 COMMISSIONER BOONE: I don't have a --
2 you know, that's something we'd have to look
3 at if you'd like to really try and assess or
4 gain an understanding there.

5 We do know that in terms of sales of
6 property, if you will, or transfer of
7 property, residential property, we're talking
8 in the neighborhood of, in the whole
9 universe, probably 5 percent. So it's a
10 long, gradual process. Now, a homeowner
11 could opt to move to this arrangement, you
12 know, voluntarily. But in terms of it being
13 mandatory -- and the idea here is to, over
14 time, alleviate the burden, if you will, on
15 the local government in part from having to
16 do this validation.

17 SENATOR KRUEGER: My first clock is
18 done, so I'm going to give it back to the
19 chairs. Thank you. I'll be back.

20 CHAIRMAN FARRELL: Thank you very
21 much, Senator.

22 Assemblyman McDonald.

23 ASSEMBLYMAN McDONALD: Thank you,
24 Mr. Chair.

1 And good morning, Commissioner.

2 And I'm going to actually probably
3 pick up where Senator Krueger left off on
4 this STAR -- this change of the STAR rebate
5 to the personal income tax, because I'm not
6 that smart, but I just don't get it. And I
7 look at it simply through constituents' eyes.
8 The reality is, you know, we have a tax
9 problem in the State of New York. I don't
10 think anyone disagrees with that.

11 You know, I like your expression that
12 we've tackled, through some of the efforts
13 over the past couple of years, the tax
14 burden. But tackle means, you know, you make
15 your tackle, you get back up, you do another
16 play. In other words, the game continues.
17 We still have a long way to go.

18 And it's hard to get the public
19 perception to change on if we really are
20 making any progress. I philosophically have
21 a problem with the whole tax freeze and the
22 rebate checks because my constituents, they
23 look at their 2014 bill and they look at
24 their 2015 bill, and if there's any increase,

1 their taxes went up. In their minds, their
2 taxes went up regardless of the fact that the
3 check eventually makes it way back. So, you
4 know, I question that philosophy altogether.

5 But I'm trying to figure out if
6 there's any real benefit to anybody to move
7 from the STAR tax rebate, where they pay a
8 lower amount earlier, or they wait for their
9 personal income tax and maybe they'll see a
10 difference. How do we educate the public --
11 because, quite frankly, in the court of
12 public perception, I don't think we're going
13 to win on this discussion. And I don't see
14 any -- is there a financial benefit to the
15 state that I'm missing? Is that what -- what
16 is the goal, I guess is my question.

17 COMMISSIONER BOONE: Well, once there
18 is a shift, if you will, we will have -- we
19 being the state -- the Tax Department will
20 have more precise information, if you will,
21 to monitor the program. It does take the
22 burden off of the local locality to do it.
23 But it's -- you know, so it's an
24 administrative convenience.

1 And again, it's a gradual shift.
2 Unless you're in a residential property
3 transfer situation, there's no impact to you.
4 So it's something that, you know, we're doing
5 that has more of a long term benefit in the
6 administration of the credit. But as far as
7 disrupting or creating any issues for
8 existing property owners, it only comes into
9 play when there's a transfer of property.

10 ASSEMBLYMAN McDONALD: I just think,
11 since school taxes make up usually in most
12 communities, two-thirds, 60 percent or
13 two-thirds, I think we're going to lose in
14 the court of public opinion. I can
15 understand -- if we want to have a dialogue
16 about how we're going to fund education, for
17 example, on a different -- that's a great
18 opportunity for a task force to have that
19 discussion. But to be kind of gradually
20 doing this, it does cause me a little bit of
21 burn.

22 Just a comment, Mr. Chair, if I have a
23 moment, on the whole property tax cap
24 calculation, what we enacted last year in the

1 budget in regards to BOCES and those type of
2 changes. I do find -- and I've talked to
3 your staff, they're very responsive. They
4 get back to us very quickly. But there
5 really doesn't seem to be an urgency to
6 really give these districts that true
7 calculation of what their property tax cap
8 will be this year. And it's bothersome
9 because here we are February 2nd, May --
10 what, the second, third week in May is when
11 these budgets go up to a vote. And
12 personally, I don't know if that exception
13 that we approved is really going to be that
14 meaningful. But it would be nice if we could
15 just put it behind us and move on to other
16 issues we have to deal with.

17 And I just had -- and I know you don't
18 run the Thruway, you have enough challenges
19 with Tax and Finance, I'm sure. But in
20 regards to the Thruway toll credits, I
21 remember when the Governor introduced it, it
22 was like hmm, that's interesting, why are we
23 doing this. And I get it, I'm very sensitive
24 to the transportation costs for farmers,

1 particularly. And obviously, representing
2 five urban areas, I want low-cost produce in
3 my community, we want to eat healthy, the
4 whole nine yards.

5 But what is the rationale behind this?
6 Because I'm still trying to figure out, after
7 being here in my fourth year, how we're going
8 to pay for the Tappan Zee Bridge. And I
9 don't really seem to get a direct answer. It
10 seems like we wait for surplus -- and I get
11 it, it's an expensive endeavor, it truly is a
12 transformational and historic project. But
13 do we really have \$350 million to toss around
14 to issue this credit? I have not heard one
15 thing from my constituents about this. I can
16 tell you this, if we were having the opposite
17 direction, more usual conversation, which is
18 about raising the tolls, there would be a
19 stampede. But I have not heard much about
20 people saying, Please, reduce my tolls for
21 the 10 trips I take a year on the Thruway.
22 So I'm trying to get an understanding of
23 that.

24 COMMISSIONER BOONE: Well, first of

1 all, in terms of how it's paid for, it's paid
2 for from the bank penalties that were -- it's
3 a one-time incurrence, if you will.

4 So again, it's meant to address farms,
5 it's meant to address individuals who use the
6 Thruway in a very frequent way. And it's
7 also meant to address other businesses. So
8 it's another way, if you will, to provide a
9 credit benefit to those frequent users of our
10 vital infrastructure, the Thruway, in the
11 transport of either themselves to their jobs
12 or their goods to market. So it's another
13 business initiative that the Governor is
14 putting forth to help us rehabilitate our
15 image as a business-friendly state, a place
16 where businesses will want to remain and will
17 want to come and do business, as well as
18 address the individual user.

19 ASSEMBLYMAN McDONALD: Thank you.

20 CHAIRMAN FARRELL: Thank you.

21 CHAIRWOMAN YOUNG: Thank you.

22 We've been joined by Senator Diane
23 Savino.

24 But, Commissioner, I do have some

1 questions I'd like to get to, and I may have
2 to come back for some more, just as Senator
3 Krueger is planning on coming back for some
4 more.

5 First of all, I appreciate your
6 comments about the STAR program. Some of us
7 in the Legislature have districts where it's
8 primarily rental housing, but many of us and
9 I'd say most of us in the Legislature
10 represent homeowners who have to struggle
11 every single day with the heavy tax burden
12 that we have in this state.

13 One of the things that we hear over
14 and over again is the fact that the tax
15 burden is too high -- it's suffocating, in
16 many cases -- they want more property tax
17 relief. And the STAR program has really been
18 a lifeline for so many people who are
19 struggling, seniors on fixed incomes.

20 And so this proposal that's included
21 in the Executive Budget proposal, basically
22 the way it would operate -- and I just want
23 to clarify this fact -- so what you're saying
24 is that people would have to pay the entire

1 school tax bill in the fall -- that's
2 correct, right -- and then they would not get
3 a credit on their taxes until six months
4 later. Is that how the program would work?

5 COMMISSIONER BOONE: It would work --
6 again, for those who have transitioned into
7 the credit.

8 CHAIRWOMAN YOUNG: Right. But so the
9 homeowner would have to pay the full school
10 tax bill up front in the fall and have to
11 wait for six months in order to get some
12 relief on the back end on their income tax?

13 COMMISSIONER BOONE: Well, not to -- I
14 don't want to be too petty about it, but, you
15 know, it depends on how soon they file. We
16 turn around tax returns very rapidly. We're
17 able to do that once an individual files.

18 But again, we're talking about a very
19 small percentage of individuals who are
20 impacted by this shift. And I think in most
21 instances when people buy a home, they factor
22 in how their taxes are paid. That can be
23 part of their escrow reserve, so that they're
24 not hit with a one-time payment; rather, it

1 is accumulated over time, and that eases the
2 burden. An installment payment plan, if you
3 will. So that's available to I think most if
4 not all purchasers.

5 And so I don't think the impact is
6 going to be as dire as it may be perceived.
7 Again, because this is a transitional program
8 that is only triggered when there is a
9 transfer of property.

10 CHAIRWOMAN YOUNG: I understand. And
11 so I know it would take a while to work
12 through. But I have to tell you that
13 taxpayers in upstate New York communities
14 that have homes that benefit from the STAR
15 program I think would be very concerned to
16 have any changes to the structure of the STAR
17 program. So I just want to point that out.

18 Switching gears, the Executive Budget
19 proposes to restructure the appropriations of
20 six existing programs into two new programs,
21 and I wanted to probe that a little bit,
22 because there are no cost savings that we can
23 garner from taking such actions. So why
24 restructure these six programs into two if

1 there are no savings associated with this
2 restructuring? I just want to know what the
3 thought process is behind it.

4 COMMISSIONER BOONE: Sure. You're
5 referring to our operations budget?

6 SENATOR YOUNG: Yes.

7 COMMISSIONER BOONE: Okay. So
8 essentially we have done some realignments
9 within the Tax Department. And probably the
10 most significant one has been -- as you know,
11 the Office of Real Property Tax Services was
12 consolidated with the Tax Department in late
13 2010. And there were some synergies that
14 were achieved right away in terms of just
15 applying the broader administrative legal
16 capability that the department possessed to
17 this new operation.

18 What we sought to do during this last
19 year is to more fully integrate that unit
20 into our operations, our processing
21 operation. We're fortunate at the Tax
22 Department to have some very broad-based
23 capabilities that provide extra capacity that
24 we can apply to other areas even outside of

1 our core mission. For example, we run a call
2 center and we run a print shop, just for
3 example.

4 But in this particular instance, this
5 is an internal reconciliation or squaring up
6 of our books relative to where this operation
7 now reposes within the Tax Department. We
8 have maintained the local offices that were
9 part of the Office of Real Property Tax
10 Services that are dispersed around the state.
11 Those remain in place. This goes to more of
12 the core operations function that we sought
13 to integrate into our broader operations
14 function.

15 So the movement you see here in the
16 approach is to reconcile how that is
17 accounted for.

18 CHAIRWOMAN YOUNG: Will there be any
19 movement of any employees at all?

20 COMMISSIONER BOONE: I'm sorry, I
21 didn't hear you.

22 CHAIRWOMAN YOUNG: Will there be any
23 movement of any employees at all?

24 COMMISSIONER BOONE: Any movement?

1 CHAIRWOMAN YOUNG: Yes.

2 COMMISSIONER BOONE: You mean adverse
3 movement?

4 CHAIRWOMAN YOUNG: Well, what I mean
5 is will employees move from one of the
6 current programs into another? Is that what
7 you're saying?

8 COMMISSIONER BOONE: Well, I'm saying
9 they're being integrated into a broader --
10 under the leadership of a broader program.
11 The operational portion of this program is
12 being folded into the broader compatible
13 operations that has a leadership structure in
14 place and has other capabilities in place.

15 So basically what we're doing is
16 working more horizontally, if you will, you
17 know, to use that term. And we are trying to
18 cluster like functions in like areas under
19 single leadership so that there's better
20 leveraging and support of a function, as
21 opposed to just being stand-alone.

22 I mean, that's sort of been the whole
23 strategic direction of Governor Andrew Cuomo
24 during his first term, and it continues now,

1 is how do agencies that historically were
2 stand-alones but have some similar functions
3 and synergies to other agencies, how do we
4 consolidate that to become more efficient and
5 effective because of scarcer resources. And
6 how do we leverage capabilities in a broader
7 way, provide broader application, you know,
8 to again not just silo, but cross-cutting
9 functions.

10 And that's what's happening here. We
11 looked at it, we studied it very carefully,
12 we used a consultant to help us and to sort
13 out where the compatibilities lie and the
14 opportunities were. And that's what we acted
15 on.

16 CHAIRWOMAN YOUNG: Thank you,
17 Commissioner.

18 Switching gears, could you please
19 explain why a jeopardy assessment provision
20 is needed for the enforcement of cigarette
21 and tobacco taxes?

22 COMMISSIONER BOONE: Why -- could you
23 just repeat the question?

24 CHAIRWOMAN YOUNG: Could you please

1 explain why a jeopardy assessment
2 provision --

3 COMMISSIONER BOONE: Oh, jeopardy.
4 Okay, I didn't hear you. Yeah, sure.

5 CHAIRWOMAN YOUNG: Maybe we should
6 have the commissioner come sit up front like
7 some of the --

8 COMMISSIONER BOONE: Yeah, well, you
9 know, I'm a little -- it may be me, but a
10 little trouble --

11 CHAIRWOMAN YOUNG: No, I'm sorry about
12 that. We actually have had some difficulties
13 in some other hearings where it's difficult
14 to hear out at the table.

15 COMMISSIONER BOONE: Okay. Well,
16 thank you for your forbearance in restating
17 your question for me. I follow it.

18 So you asked me about jeopardy
19 assessments, why we're asking for that.

20 CHAIRWOMAN YOUNG: Yes, with cigarette
21 and tobacco taxes.

22 COMMISSIONER BOONE: Sure. Sure.
23 Well, it's a tool, it's an enforcement tool,
24 a collection tool that we've found to have

1 very fruitful application in the sales tax
2 area. And basically what drives it is a
3 circumstance where revenues are at risk that
4 are otherwise owed to the state -- basically
5 trust monies, if you will, where a vendor
6 collects money, taxes that are owed to the
7 State of New York. It's not their money,
8 okay, so that's why we call it trust money.
9 And really they have a fiduciary
10 responsibility to remit that money to us.

11 But what happens, in some instances,
12 we have vendors who are not vigilant or
13 compliant, quite frankly, in remitting -- in
14 protecting those monies and remitting those
15 monies, those taxes to the state. Or they
16 otherwise are in an at-risk circumstance, you
17 know. So this is a tool that allows us to
18 segregate these moneys, if you will, to go
19 into a distinct account and really provide
20 more control, if you will, and assurance that
21 ultimately those moneys will redound to the
22 benefit of the state.

23 So it's a compliance tool for
24 lesser-compliant and at-risk vendors.

1 CHAIRWOMAN YOUNG: So what you're
2 saying is under the current tax provision,
3 which is Section 478, there are some issues
4 with adequately addressing the collection of
5 cigarette and tobacco taxes from a potential
6 or alleged tax evader. Are you saying that
7 that section needs to be upgraded somehow?

8 COMMISSIONER BOONE: Well, I'm just
9 saying there are instances where, especially
10 in the cigarette tax area, where yeah, we
11 need the additional capability when we
12 identify an at-risk vendor, if you will,
13 who's responsible for remitting the taxes
14 that we can assert greater control earlier,
15 if you will, in the process to make sure
16 those taxes are paid.

17 CHAIRWOMAN YOUNG: Thank you.

18 Now, the jeopardy assessment provision
19 is authorized under Section 694 of the Tax
20 Law for the collection of personal income
21 tax. And how often is the jeopardy
22 assessment used in the collection of personal
23 income taxes?

24 COMMISSIONER BOONE: I would have to

1 get back to you on that. I could not --

2 CHAIRWOMAN YOUNG: Great, that would
3 be helpful. Thank you.

4 And just following up, we were
5 wondering what factors go into deciding what
6 jeopardizes or would delay the payment of
7 income taxes.

8 COMMISSIONER BOONE: In terms of a
9 refund?

10 SENATOR YOUNG: Well, yes. And as you
11 look at this, what kinds of things go into
12 that as far as delaying any kind of payment
13 of income tax refunds?

14 COMMISSIONER BOONE: Sure. So
15 basically what happens, again, because of
16 some great technology and talent, that
17 marriage that we have, we essentially can
18 electronically interrogate every return. And
19 we do. And we're looking for outliers, if
20 you will. So a multitude of factors in an
21 algorithm that are applied electronically
22 relative to identifying and informing a
23 profile for that particular tax return.

24 And so when we identify outliers, if

1 you will, those are subject to further
2 inquiry and scrutiny by our select team that
3 has specialized training and ability to
4 further scrutinize those particular returns.
5 So that will delay a refund.

6 But outside of that process, generally
7 we -- if -- you know, if things are in order,
8 we turn around the refunds very quickly. We
9 take that responsibility very seriously
10 because in those instances, that's money
11 that -- we recognize that's money that
12 belongs to the taxpayer. And in essence what
13 we're doing is performing a reconciliation
14 function.

15 CHAIRWOMAN YOUNG: I see.

16 And so through that electronic
17 interrogation technique, is that what you
18 envision to do regarding cigarette and
19 tobacco taxes, the same type of approach.

20 COMMISSIONER BOONE: Well, the volume
21 of -- again, what has happened with -- you
22 know, we have a strike force that was formed
23 a few years ago, and so this strike force
24 works with multiple law enforcement agencies

1 to stop the sources of the flow of untaxed
2 cigarettes into New York. And so that's in
3 concert with federal and various multistate
4 and local intrastate jurisdictions.

5 And what is -- you know, smoking
6 cessation has occurred as citizens have
7 become better informed about the dangers of
8 smoking, so the tax has gone down. But our
9 assessments on untaxed cigarettes have
10 trended up over the last three years that the
11 program has been in effect in earnest. So
12 the revenue collected is somewhere around
13 \$2.2 million in the last fiscal year, or the
14 fiscal year ending this March.

15 So the volume of it is not the same as
16 other taxes, if you will. So we don't -- I
17 guess the other way to say it is that we can
18 bring more scrutiny to it just because of the
19 lesser volume.

20 CHAIRWOMAN YOUNG: Thank you.

21 At this point I'll turn it back to the
22 Assembly. I do have some more questions, but
23 I'll come back.

24 CHAIRMAN FARRELL: Thank you, Senator.

1 Assemblyman Oaks.

2 ASSEMBLYMAN OAKS: Thank you,
3 commissioner. I'd like to go back just on
4 the Thruway tolls a minute.

5 With that being a credit, certainly
6 we're going to be aware of it, we'll have it
7 in the news, I'm sure, whenever. But
8 generally, if this becomes law, will we have
9 a process of notifying those who are frequent
10 users of the Thruway so that they make sure
11 they're aware of their opportunity for the
12 credit?

13 COMMISSIONER BOONE: Sure.

14 Outreach and communication is an area
15 that I think the Tax Department has done a
16 good job and is one of our strategic focuses,
17 if you will, as we move forward, both in
18 terms of creating -- we have a robust
19 website, for example. But we're looking to
20 make it even more navigable and easier to use
21 as more and more users turn to that means or
22 that mode of understanding what the
23 requirements are and what available programs
24 are.

1 We also have an outreach function. We
2 have a small business or business tax
3 ombudswoman who's actively engaged with the
4 business community. Myself and my team and a
5 number of our subject-matter experts are
6 constantly engaged in communication with the
7 various trade and professional societies and
8 associations. So we're looking at every
9 avenue, if you will, to proliferate awareness
10 of benefits that are available. And then we
11 of course target our communications to
12 affected groups, especially when there's a
13 new benefit.

14 The other thing that has helped us is,
15 again, the amount of data that we receive,
16 third-party data that we apply analytics to
17 to help us better identify and forecast where
18 we do need to target and prioritize our
19 efforts.

20 So I think there will be a very robust
21 effort and recurring effort to create
22 awareness about the benefit.

23 ASSEMBLYMAN OAKS: One of the
24 provisions in the Governor's proposal mirrors

1 one -- somewhat -- that he made last year on
2 a Parental Choice in Education Act, so
3 providing some opportunity for tax credits
4 for individuals that want to donate to some
5 of our private schools.

6 Last year I believe there was \$50
7 million that would go toward private and
8 \$50 million toward public. The Governor's
9 proposal this year -- or it was 50/50, I
10 think, in percentages. This year it's
11 looking at only 20 on the public side.

12 Was there a rationale in the proposal
13 to go less toward the public school as
14 opposed to the private this year?

15 COMMISSIONER BOONE: Well, as you
16 identified, Assemblyman, there is \$70 million
17 for the Education Scholarship Program tax
18 credit. And \$50 million of that is for
19 education scholarship organizations, and
20 \$20 million for credits for contributions to
21 public education entities and school
22 improvement organizations, et cetera.

23 In terms of, you know, the allocation
24 of the funding, that's something that I

1 would -- if you want more insight into that,
2 I would have to get back to you on it.

3 ASSEMBLYMAN OAKS: Okay. Thank you on
4 that.

5 One other provision that I just wanted
6 to briefly go into was there are fines, as
7 part of the proposal, on tax preparers if
8 they understate an individual's liability for
9 their taxes. Is that going to be -- well,
10 there's a couple of different things. One,
11 there's a two-level enforcement, the
12 fines being determined if they are reckless
13 or intentional, having higher -- just trying
14 to get an idea how that might be determined,
15 whether it was, you know, inadvertent or
16 other.

17 And if -- on the inadvertent side, are
18 we going to -- you know, if there's any
19 claim, you know, mine gets sent in and, you
20 know, there's a \$5 addition error, is my
21 preparer now going to be liable for up to a
22 thousand dollars because, you know, they
23 carried the wrong number?

24 COMMISSIONER BOONE: No, that's not

1 our focus. Our focus, like most proposals
2 that eventually come from the administration,
3 from agencies, are really driven by
4 experience with -- in practice. And in the
5 practice what we have observed is that we
6 have some tax preparers -- and let me just
7 pause for a moment to make sure I'm careful
8 to differentiate the different preparers.

9 So we have the licensed attorneys, the
10 licensed CPAs, and we have enrolled agents.
11 The enrolled agents receive their status from
12 the IRS, the federal government. For those
13 category of preparers, professionals, our
14 function -- we don't regulate, because
15 they're regulated in essence through their
16 licensure organizations.

17 The tax preparers, some 43,000 that we
18 regulate, are those who fall outside of those
19 particular categories. And the concerns that
20 we have seen, recurringly tax preparers take
21 positions or claims for refunds that are not
22 supported by law. And that's really what
23 we're looking to get at with this penalty, if
24 you will, that we stop and penalize that type

1 of more egregious, unfounded behavior, if you
2 will, on the part of tax preparers.

3 ASSEMBLYMAN OAKS: Thank you,
4 Commissioner.

5 CHAIRMAN FARRELL: Thank you.
6 Senator?

7 CHAIRWOMAN YOUNG: Thank you,
8 Assemblyman.

9 Our next speaker would be Senator
10 Krueger.

11 SENATOR KRUEGER: Hi, Round 2.

12 Following up actually on Senator
13 Young's questions about tobacco tax issues,
14 so several states have moved to a digital
15 high-tech tobacco stamp -- California,
16 Massachusetts, Michigan -- and have found
17 that the high-tech encrypted or digital type
18 of tax stamp makes tracking counterfeit
19 tax-stamped cigarettes much easier and
20 increases revenue. And actually the CDC,
21 Centers for Disease Control, came out with a
22 report recommending that more states explore
23 this new model of tax stamp.

24 What kind of research have we done

1 here in New York?

2 COMMISSIONER BOONE: I'm not aware of
3 any specific research that we've done. I can
4 tell you that -- and to the extent you want
5 to know, you know, I can confirm for you, get
6 back to you what exactly we've done in that
7 regard, if anything.

8 What we are looking at, though, is
9 creating more of a test-and-learn
10 environment, if you will, within our agency
11 across a number of areas and in the criminal
12 enforcement side, which is where cigarette
13 tax typically falls. We are looking to
14 develop more of a capability, if you will,
15 around any number of investigations, forensic
16 or whatever.

17 So part of that is to enhance a
18 digital capability, is really the relevance
19 of the point I'm trying to make here.
20 Whether we've thought about how it
21 specifically would apply to cigarette tax, I
22 don't know. I would have to get back to you
23 on that.

24 SENATOR KRUEGER: I would like you to

1 get back to me. And I would urge you to at
2 least explore the findings from the other
3 states that have been implementing it,
4 because it seems initially that it is
5 assisting both their criminal justice system
6 and their tax system to be able to better
7 track and identify both counterfeit
8 cigarettes coming in from who knows where and
9 also track, you know, correctly for tax
10 purposes actual cigarettes that have been
11 appropriately stamped and taxed.

12 COMMISSIONER BOONE: The only comment
13 I would offer is that, you know, with regard
14 to cigarettes, it's really the physical
15 capture, if you will, of the contraband. So
16 unaided, I don't know how without that the
17 digital enhancement will enable that capture.
18 Because you do have to interdict, you know,
19 and find the product, if you will, and then
20 assess whether it has the appropriate tax
21 stamp or not.

22 SENATOR KRUEGER: I don't disagree. I
23 think what's interesting and unique about
24 cigarette taxes -- and it was interesting

1 that it was the CDC doing the study -- we put
2 taxes on cigarettes obviously both for tax
3 purposes, for revenue, but because it's a
4 public health win. The higher the tax rate
5 on cigarettes, we have learned, the lower the
6 take-up of smoking, which is a public health
7 win.

8 So if in fact we are not setting up a
9 system where we can assure correct taxes are
10 applied and collected on cigarettes, we're
11 flunking the public health part of the
12 assignment. Because if they're cheaper, more
13 people may in fact smoke them, particularly
14 young people, and our goal was to stop that
15 from happening.

16 COMMISSIONER BOONE: I get your point.

17 And I would suggest, though, also, in
18 furtherance of your point, that the effort is
19 working because we're seeing the tax
20 collection go down on appropriately,
21 legitimately taxed -- or cigarettes that have
22 paid their -- tobacco products that have
23 complied and paid their taxes. So that
24 revenue stream is decreasing, so it is

1 working and furthering the public benefit.
2 There's always room for improvement, and we
3 believe in continuous improvement at the Tax
4 Department.

5 SENATOR KRUEGER: Good.

6 Earned income tax credit, a tax credit
7 that the state provides a tax match to the
8 federal earned income tax credit. There's
9 enormous discussion about raising the minimum
10 wage in this state. And if you've been
11 hanging out in this room at budget hearings,
12 you will hear both concerns and support but
13 also concerns if we're raising the minimum
14 wage for people who are paid through state
15 contracts -- home healthcare workers,
16 hospital workers, Medicaid-funded programs,
17 human service workers.

18 How do we make sure, when we raise the
19 minimum wage -- because I'm in favor of
20 raising it -- that we actually are providing
21 money for these not-for-profits and
22 healthcare providers to actually pay the
23 minimum wage? That's the background.

24 As people's minimum wage raises, they

1 will actually be eligible for less earned
2 income tax credit. Now, that might be
3 ideologically controversial to some people,
4 but I think it's factually correct. So right
5 now 1.8 million New York tax filers receive a
6 state earned income tax credit, and it totals
7 about \$4 billion. I'm asking for your help;
8 I do not expect you to have an answer in
9 front of you. If you can do some math for
10 me, because we tried and we don't have the
11 numerical -- we don't have the information to
12 do the analysis.

13 If we raise the minimum wage, let's
14 say by the end of next year, to \$12 an hour
15 and then it goes up a dollar a year, there is
16 going to be some corresponding reduction in
17 these families' and singles' eligibility for
18 EITC. That seems to me that that is revenue
19 back to the state that could perhaps be used
20 to pay the minimum wage increased cost on
21 those state contracts to workers. You get
22 the connect between those?

23 COMMISSIONER BOONE: I follow you,
24 yes.

1 SENATOR KRUEGER: So do you think your
2 department can help me do some math to
3 understand, based on the Governor's proposed
4 minimum wage increase and what your
5 department knows is the payout at different
6 income levels -- there's two different
7 formulas, one for families with children, one
8 for singles -- what the corresponding
9 lowering of EITC payout would be for the
10 state?

11 Because I think that in the answer to
12 that question is at least a partial solution
13 to how New York State can make sure that it
14 helps to raise low-income people's working
15 pay but also not put it in a position where
16 it's telling its human service and healthcare
17 contractors: You have to do it, but we're
18 your revenue stream and we're not helping.

19 So I would love your help with that.

20 COMMISSIONER BOONE: My team will
21 certainly be happy to engage with yours in
22 terms of any technical assistance that we can
23 provide.

24 SENATOR KRUEGER: Great. Thank you.

1 I think I'm at zero again. I might
2 need a third round, but I don't want to take
3 up --

4 CHAIRWOMAN YOUNG: You can finish up.

5 SENATOR KRUEGER: Okay, one more
6 category.

7 Everyone also on these panels and in
8 the Legislature discusses property tax issues
9 endlessly: The cap -- the good, the bad, the
10 ugly, the impact on their school districts
11 and their communities. What we don't seem to
12 talk about is the fact that our system for
13 applying property taxes is apparently,
14 according to several studies, the most
15 complex and unjustifiable in 50 states. We
16 have nearly a thousand assessing units who do
17 different models of assessments of our
18 property taxes, not just in individual
19 municipalities but perhaps three or four or
20 five different kinds within municipalities.
21 That the system lacks fairness and
22 transparency, and that New York would do far
23 better if it had a model that at least
24 replicated some of the reforms and

1 simplification that other state property tax
2 systems have gone through.

3 Is there something your department is
4 working on now, or is there something we
5 could perhaps work on together to at least
6 address that -- what I call mass confusion
7 out there?

8 COMMISSIONER BOONE: Well, Senator,
9 the way our state has chosen thus far to
10 allocate responsibility for property taxes is
11 to repose that valuation methodology, if you
12 will, at the local level, and thus the
13 various disparate methodologies that are in
14 use.

15 So unless and until there is, you
16 know, a direction to arrogate that to the
17 state, we are not in that space, beyond
18 providing the support services that we do
19 through our real property tax services to the
20 various localities as they administer their
21 particular systems.

22 SENATOR KRUEGER: Can you give me an
23 estimate of how many of the localities
24 actually come to you for technical assistance

1 and advice? Because you're right, we let
2 each locality do it themselves, and I feel --
3 actually, I'm New York City, and it's a
4 little bit of a different story.

5 COMMISSIONER BOONE: Yes.

6 SENATOR KRUEGER: Although, trust me,
7 our property tax system is unexplainable and
8 unjustifiable.

9 You know, I talk to representatives
10 from small towns who say it's killing them to
11 try to figure this stuff out correctly. And
12 the staffing costs for themselves is very
13 high.

14 So how many entities do you provide
15 technical assistance to? And is there some
16 reasonable almost best-practice model that
17 you could offer in the absence of the state
18 changing its laws about how it dos this?

19 COMMISSIONER BOONE: I would -- I
20 couldn't give you a number. I couldn't
21 quantify the inquiries, and I would not want
22 to.

23 I can say anecdotally I'm aware that
24 there is a lot of interactive communication

1 between a real property tax services function
2 and the localities. Those, as you know, are
3 dispersed geographically in various areas of
4 the state, and there tends to be very good
5 historically based working relationships. So
6 I think the locals would tell you they don't
7 have a lot of difficulty accessing the state
8 relative to their concerns.

9 And to the extent we can provide
10 assistance, we do. But in terms of the
11 actual -- the volume, I would have to get
12 back to you on that.

13 As far as best practices, again, we do
14 have subject-matter experts of long standing
15 within the department. And part of what we
16 do try and do with a particular jurisdiction
17 is to share those best practices that are
18 applicable to their particular circumstances.
19 And if we are aware of, you know, because of
20 the unique position we sit in, something
21 happening over here that would be beneficial
22 or even information-sharing, putting together
23 different localities, we will do that as part
24 of the learning pollination process.

1 SENATOR KRUEGER: Would you agree with
2 my initial analysis, though, that New York is
3 infamously in trouble on this issue?

4 COMMISSIONER BOONE: Well, I agree
5 that it is infinitely complex and disparate
6 between we have so many different approaches
7 that are used among the localities.

8 SENATOR KRUEGER: Thank you.

9 CHAIRWOMAN YOUNG: Thank you.

10 CHAIRMAN FARRELL: Thank you.

11 The Executive Budget proposes a
12 variety of new tax credits -- credit
13 extensions, temporary tax cuts, and other
14 actions that are expected to result in
15 revenue losses of \$596 million in state
16 fiscal year 2017-2018, growing to a loss of
17 \$1.2 billion by 2019-2010.

18 In addition, at least another
19 \$2 billion of previously enacted tax cuts are
20 scheduled to impact the 2017-2018 and future
21 fiscal years.

22 Given the proposed tax cuts and
23 credits, in your estimate is the state
24 fiscally prepared for the next down cycle,

1 which is about eight years from now? Is the
2 state tax policy ready to withstand any
3 adverse economic circumstances?

4 COMMISSIONER BOONE: Mr. Chairman, I
5 think that's a question that is more fully
6 within the ambit of the Division of the
7 Budget. However, we work closely with the
8 Division of the Budget, and you are privy to
9 the forecasts that, you know, have been
10 provided. So we have contributed, if you
11 will, to that analysis as a partner with
12 Division of the Budget. But I don't feel
13 that I would be the best qualified person to
14 opine on that.

15 CHAIRMAN FARRELL: I was hoping you
16 would be.

17 (Laughter.)

18 CHAIRMAN FARRELL: The question is
19 where is the money coming from.

20 In 2015, the legislation was enacted
21 that authorized the commissioner of Taxation
22 and Finance to consider and implement
23 measures that would exclude from the property
24 tax cap school district shares of capital

1 expenditures made by BOCES. Similar
2 authorization was given to adjust the quality
3 change factor used in tax-exempt land. And
4 in addition, according to the State
5 Comptroller, the inflation factor, a critical
6 component of tax-levied limited calculation,
7 is set at 0.12 percent for some schools and
8 some municipalities for 2016.

9 What measures have been taken to
10 ensure appropriate consideration is given
11 within the tax cap calculation to account for
12 such BOCES-related capital expenditures in
13 development and tax-exempt land?

14 COMMISSIONER BOONE: Well, as I said
15 earlier, Mr. Chairman, we're reviewing the
16 impacts of the potential changes called for,
17 if you will, or provided for under that
18 language that was passed last June by the
19 Legislature and signed into law. So we're
20 reviewing the impacts of those potential
21 changes on municipalities, school districts
22 and of course, most importantly, taxpayers.

23 And I think the complexity of it, the
24 inherent complexity of it is embodied by your

1 question. And so we have it under review.

2 CHAIRMAN FARRELL: Thank you very
3 much.

4 Senator?

5 CHAIRWOMAN YOUNG: Thank you.

6 Senator Savino.

7 SENATOR SAVINO: Thank you, Senator
8 Young.

9 Thank you, Commissioner Boone, for
10 your testimony. I have one or two questions
11 about converting the -- the budget calls for
12 the conversion of the New York City PIT STAR
13 credit to a New York State PIT credit. And
14 the Division of the Budget claims that there
15 won't be an impact to the city's financial
16 bottom line. However, if this is enacted,
17 the state will not be making the usual
18 \$87 million payment to the City of New York.

19 So I'm kind of confused as to, first,
20 how are we doing this? How will this affect
21 New York City homeowners? And the timing --
22 due to the timing issue with the payments to
23 the state, how will we assure the City of
24 New York this won't actually have an effect

1 on them?

2 COMMISSIONER BOONE: So if I hear you
3 correctly, Senator, you're asking me about
4 the proposal to convert the New York City
5 PIT, personal income tax, STAR credit to New
6 York State PIT STAR credit.

7 SENATOR SAVINO: Mm-hmm.

8 COMMISSIONER BOONE: And the rationale
9 behind this is really -- is to create
10 administrative efficiencies. So currently --
11 so basically what this would do is give
12 eligible taxpayers a credit against their
13 state personal income tax instead of their
14 New York City personal income tax, and
15 thereby eliminating the need for the state to
16 reimburse New York City government as it
17 currently does.

18 So it is shifting the initial -- or
19 that payment, up-front payment or burden, if
20 you will, on New York City directly to the
21 state. That's what it accomplishes. So
22 there is no diminution or detriment to the
23 taxpayer. This is more of an administrative
24 efficiency conversion as between the city and

1 the state.

2 SENATOR SAVINO: Okay. Also, on
3 the -- I'm sure someone asked this question
4 earlier and I didn't hear the answer; I'm
5 sorry for the repetition. But in the
6 conversion of the STAR exemption benefit,
7 there's a question that I have about what
8 happens to people who aren't required to file
9 returns any more? They're no longer filing
10 tax returns. How would they get a refund, or
11 how would their credit be carried forward if
12 they don't have to file tax returns?

13 COMMISSIONER BOONE: You're referring
14 now to the transition of converting STAR to a
15 personal income tax credit.

16 SENATOR SAVINO: Right, yes.

17 COMMISSIONER BOONE: Right. And as I
18 said earlier, that is a very gradual
19 transition that impacts only those
20 residential property owners who transfer --
21 actually the purchaser, if you will, of
22 property. So the new purchaser of a property
23 for the first time or, you know, trading up,
24 in those circumstances that's when this would

1 convert from a STAR benefit directly to a
2 personal income tax credit.

3 So your question on the latter part of
4 that, there is a mechanism, as I recall --
5 I'll get back to you on it to make sure I'm
6 precise, but I believe there's a mechanism
7 that allows, in that instance, for the
8 taxpayer to deal with the local entity. But
9 let me get back to you on that to make sure
10 I'm accurate and precise.

11 SENATOR SAVINO: Okay, thank you.

12 And one other thing. For enhanced
13 STAR exemptions, seniors now will have to
14 enroll in an income verification program.
15 Currently it's voluntary, and it allows the
16 department to annually verify seniors' income
17 eligibility.

18 So as you know, seniors sometimes
19 don't pay attention to these things. So what
20 steps can we take to make sure seniors who
21 are eligible for the enhanced STAR exemption
22 won't lose it because they didn't file the
23 paperwork or they weren't aware that they had
24 to do it? Do you have a list of those

1 seniors that are eligible for it, and what
2 steps will the department take to make sure
3 that they're aware of this?

4 COMMISSIONER BOONE: Well, we would
5 engage in a very robust communication
6 campaign.

7 We also have a provision that's being
8 proposed to provide the commissioner of tax
9 the discretion in certain circumscribed
10 instances to address, if you will, a failure
11 on the part of an enhanced STAR beneficiary
12 to file. So there are safeguards in terms of
13 how we would approach administering the
14 program, and then we're asking for additional
15 discretion or limited discretionary authority
16 to actually provide a safety net for
17 circumstances where there is a failure with a
18 senior taxpayer, so that they don't lose that
19 significant benefit.

20 SENATOR SAVINO: And one final -- I
21 guess more of a point than a question, and
22 I'll be very brief.

23 I notice that in the Executive Budget
24 it calls for a reduction of 92 full-time

1 equivalents at the Department of Tax and
2 Finance. You and I have had this discussion
3 many times when you were the head of Civil
4 Service; I have a serious concern about what
5 I call, you know, a lack of succession
6 planning in these agencies. We are one
7 retirement away from losing thousands of
8 employees who have a tremendous amount of
9 knowledge, and we're not hiring and
10 backfilling.

11 So I know, you know, your budget calls
12 for no increased hiring, but I think at some
13 point it would be helpful, since you're
14 implementing all sorts of tax rules, that
15 maybe we start talking about hiring employees
16 again to help implement these new rules.

17 Thank you.

18 COMMISSIONER BOONE: Thank you,
19 Senator. May I offer a comment? As you
20 know, we often do.

21 The talent pipeline, as you know, is
22 an area that I was very concerned about as
23 commissioner of Civil Service, and remain
24 very concerned about as a commissioner of the

1 workforce in New York State. And I don't
2 totally agree with your premise that we're
3 not engaged in succession planning. So I'm
4 speaking now solely for the Tax Department,
5 because that's the only authority I have.

6 So at the Tax Department, we do have a
7 very thoughtful succession planning/knowledge
8 transfer program. And in fact it's an area,
9 though, that we need to bring more capability
10 to bear, and it's an area where I have
11 augmented our capability so that we are more
12 strategically and systematically looking at
13 talent and performing talent reviews. And we
14 have effective cross-rotational programs now
15 where we're able to move, consistent with
16 union rules and civil service rules, move
17 individuals who are performing certain
18 functions from one area to another.

19 So for example, in the audit space, we
20 embed auditors into our criminal prosecution
21 or investigation unit, and that makes us more
22 effective. And the learnings that happen
23 there further inform our audit practices when
24 those auditors go back into the audit arena.

1 So we have rotational assignment
2 programs. Again, it's something that --
3 that's just one example, but it's something
4 that I am very concerned with: workforce
5 viability, capability, longevity, and making
6 sure that we perpetuate those and transfer
7 those capabilities. And again, at the Tax
8 Department we are approaching it in a very
9 systematic way, and we'll continue to do
10 that.

11 SENATOR SAVINO: Thank you.

12 COMMISSIONER BOONE: Thank you.

13 CHAIRMAN FARRELL: Thank you.

14 Senator?

15 CHAIRWOMAN YOUNG: Thank you,
16 Commissioner. I did have some follow up
17 questions.

18 So the Governor has announced that
19 he's raising the minimum wage of state
20 workers to \$15 an hour. I was hoping that
21 you could give us a report, some information
22 on how many permanent and contractual
23 employees of Tax and Finance this move would
24 affect.

1 COMMISSIONER BOONE: I thought you
2 might be interested in that, Chairwoman.

3 CHAIRWOMAN YOUNG: Good. So you came
4 with the answer.

5 COMMISSIONER BOONE: Yes.

6 CHAIRWOMAN YOUNG: Great.

7 COMMISSIONER BOONE: Yes, I can give
8 you an answer.

9 So most of our employees are at or
10 above the \$15 an hour threshold. We have, if
11 memory serves me correctly, some 700, 800
12 employees who are slightly below, who are in
13 the \$14-plus range. And so it's a relatively
14 small but significant number of our overall
15 employee population of some 4200-plus
16 permanent full-time.

17 And then we have temporaries and
18 temporary employees, as you know, to address
19 seasonality in the tax returns, and typically
20 that forms the lion's share of the employee
21 population who are slightly below the
22 \$15 minimum.

23 So we're very close, and the impact --
24 while any impact, you know, is meaningful,

1 it's not a huge disparity for us.

2 CHAIRWOMAN YOUNG: So just a ballpark
3 figure of number of employees?

4 COMMISSIONER BOONE: I would --
5 \$700,000, \$800,000, somewhere in that range.
6 It's what it would cost.

7 CHAIRWOMAN YOUNG: Still a significant
8 amount of money, right. So 700,000 to
9 800,000. Interesting.

10 COMMISSIONER BOONE: That's on a
11 budget of \$435 million.

12 CHAIRWOMAN YOUNG: Still, \$700,000
13 \$800,000 is a significant amount of money.

14 COMMISSIONER BOONE: Of course. Of
15 course.

16 CHAIRWOMAN YOUNG: So the department,
17 as Senator Savino pointed out, is expecting
18 to lose 92 FTEs. And you answered some of
19 her questions, but we were just wondering,
20 what programs exactly are the attritions
21 coming from? Can you give us kind of a
22 rundown of where these cuts will be made?

23 COMMISSIONER BOONE: Yes. Let me
24 emphasize here a very important point. The

1 attrition here is through retirements and
2 people who voluntarily leave the department.
3 Okay? There are no layoffs here. So we're
4 basically -- in this proposed budget, our
5 fill level is being reduced by 92. An
6 agency, especially a large agency, is seldom
7 at its maximal fill level. So all this is
8 saying is that we cannot exceed the number of
9 employees that we are approved for, minus 92.
10 And that is accomplished, again, through
11 voluntary departures, people moving on to
12 other opportunities or for whatever reason,
13 or to retirements.

14 And in terms of those positions that
15 we focus on refilling, to the extent that
16 that may be slightly diminished by the 92
17 reduction, 92 FTE reduction in the fill
18 level, we will certainly focus on the direct
19 revenue generation areas to make sure that
20 those are adequately staffed so that we
21 fulfill our mission of collecting revenues
22 and efficiently.

23 CHAIRWOMAN YOUNG: So I appreciate
24 your answer, Commissioner. I guess -- and I

1 understood before I asked the question that
2 it would be through retirements and that sort
3 of thing.

4 COMMISSIONER BOONE: Right.

5 CHAIRWOMAN YOUNG: The question was,
6 however, where are the 92 FTEs coming from.
7 What specific jobs, departments within your
8 department are the FTEs coming from?

9 COMMISSIONER BOONE: That will be
10 determined over time as we -- again,
11 remember, we have a delta of unfilled jobs --
12 and any agency will, large agency -- as we
13 manage to our fill level, we're always
14 seeking to have those jobs filled.

15 But just by virtue of the churn, of
16 turnover -- even though turnover is
17 relatively low -- we will have that delta
18 plus other people who attrit. And it depends
19 on where they attrit from. So, for example,
20 if someone leaves outreach, you know, we'd
21 have to weight that with someone -- a need to
22 fill an item in audit. So we'll have to look
23 at it -- it's fluid. We'll have to look at
24 it on a case-by-case basis.

1 The best I can tell you is that,
2 again, our first focus will be on revenue
3 collection, making sure that we're adequately
4 staffed to fulfill that core mission to bring
5 in the revenues that provide the basis for
6 our budget.

7 At the same time, let me say this.
8 Since workforce is a passion of mine, I
9 understand the importance of investing long
10 term in certain capabilities and how that
11 lack of foresight can diminish organizational
12 capability -- if not today, down the road.
13 And I am a very fortunate beneficiary of
14 prior leadership and administration that
15 exercised, I believe, great foresight in how
16 they invested resources and technology and
17 talent. And that's something that I plan to
18 continue to be very careful at looking at,
19 you know, how do we judiciously make those
20 investments.

21 But that having been said, to the
22 extent that we have to manage a 92 FTE
23 reduction in fill level, we will do that.

24 CHAIRWOMAN YOUNG: So thank you for

1 that response.

2 You know, so basically I think what
3 you're saying is there is no set plan in
4 place, that just as you go along, you're
5 going to be looking to achieve that 92 FTE
6 mark as you just go forward. And so the
7 Legislature won't know during the budget
8 process where you plan to reduce.

9 And I just bring it up because you
10 know -- and by the way, your department has
11 been very responsive. We get constituent
12 cases all the time, as you know, regarding
13 Taxation and Finance issues. And I think
14 that, you know, as someone who represents the
15 people in my district, we want to make sure
16 that if they have a question -- because
17 again, taxes, as you know, are very important
18 to people's lives, in a positive way or a
19 negative way. Usually they call when there's
20 a negative impact. And I just want to make
21 sure that their questions and their needs are
22 addressed by the department going forward.

23 COMMISSIONER BOONE: Yes, what I try
24 to provide, Senator, is just the guiding

1 principles that we will operate under. And
2 again, at the risk of intruding on my
3 welcome, what I'm trying to say is that in
4 terms of -- the guiding principle will be
5 that, first and foremost, we must protect
6 revenue collection, generation. So in terms
7 of how we make decisions about fills, that is
8 a guiding strategic direction that we will
9 abide by.

10 In terms of a literal plan, no, I
11 would not hamstring us with -- I could not
12 tell you today, area by area, that, you know,
13 there would be a net two reduction here and a
14 net five reduction over here, except in that
15 strategic framework. So I'm just trying to
16 give you insight into how I'll think about
17 it, how we will think about it.

18 CHAIRWOMAN YOUNG: Thank you.

19 Assemblyman Oaks actually touched on
20 this, but under the Executive proposal, the
21 personal income tax exemption for small
22 businesses will be increased from 5 percent
23 to 15 percent for small businesses with net
24 business income of less than \$250,000 and at

1 least one employee.

2 It's our understanding that this
3 proposal would affect about 1.1 million
4 filers. How many additional filers would
5 benefit if there was no requirement on the
6 number of employees?

7 COMMISSIONER BOONE: Senator, I would
8 have to get back to you on that.

9 CHAIRWOMAN YOUNG: I figured you may
10 say that. I anticipated that. But if you
11 could get that information to me and the
12 Senate, that would be very helpful.

13 COMMISSIONER BOONE: Sure.

14 CHAIRWOMAN YOUNG: Assemblyman Oaks
15 also asked about the tax preparers, making
16 permanent and updating certain tax
17 modernization provisions. But how many
18 preparers do you think this will affect?

19 COMMISSIONER BOONE: Well, there are
20 some 43,000 preparers that are in the
21 regulatory body that would be subject to, you
22 know, our oversight rules, if you will.

23 Now, how that translates into specific
24 instances, I couldn't tell you unaided.

1 CHAIRWOMAN YOUNG: Okay. Well, thank
2 you.

3 And then finally, one last question.
4 According to recent reports, the medical
5 marijuana dispensary program is off to a
6 slower-than-expected start, and only 16 of
7 the 20 medical marijuana dispensaries in New
8 York State are scheduled to be open by the
9 end of January -- now. Only 300 physicians
10 have registered, and only 350 patients have
11 enrolled.

12 So will the slow start negatively
13 impact expected revenues this year and next
14 year? What are your thoughts on that?

15 COMMISSIONER BOONE: Well, as you
16 know, Chairwoman Young, the Department of
17 Health -- this sort of plays into my answer
18 about bifurcated responsibilities earlier
19 between programmatic agencies and Tax in this
20 administrative tax revenue management
21 function.

22 So the Department of Health has the
23 substantive jurisdiction and responsibility
24 for the program. There is an appropriation

1 put forth to fund the trust fund, if you
2 will. And as taxes are collected from the
3 various jurisdictions, they will flow into
4 that trust fund. It is suitably authorized,
5 we believe, or proposed to address all of the
6 tax considerations for this fiscal year,
7 upcoming fiscal year.

8 And we don't get a report on how it's
9 performing. Our first report, since the
10 program just started up -- we will get
11 monthly reports, but I believe February 20th
12 is the first report, and thereafter on a
13 similar cycle.

14 So we don't have an actual data yet to
15 tell you how it's performing, except that we
16 are -- we're equipped and we're ready to
17 administer our part of the program.

18 CHAIRWOMAN YOUNG: Yeah. And, you
19 know, I understand that DOH is responsible
20 for getting the dispensary program off the
21 ground. So I assume from your answer that
22 you'll be monitoring this very closely going
23 forward because, as you point out, different
24 agencies have different impacts on one

1 another, and obviously this is going to have
2 an impact on collections and tax revenues and
3 that sort of thing.

4 So what you're telling me, you'll just
5 monitor it as it goes along and hopefully
6 there won't be any shortfalls.

7 COMMISSIONER BOONE: Yes. And I can
8 tell you that we've already had very
9 proactive, interactive conversations with the
10 Health staff, and so those relationships are
11 in place. It's another program that we're
12 charged to administer, so we have a lot of
13 learnings around how to get these programs up
14 and running and how to administer them, and
15 I'm confident that we're in good shape, ready
16 to administer the program.

17 CHAIRWOMAN YOUNG: Thank you.

18 CHAIRMAN FARRELL: Thank you.

19 That's it. Thank you very much.

20 COMMISSIONER BOONE: Thank you,
21 Mr. Chairman, and we thank the committee and
22 chairwoman. Thank you very much.

23 CHAIRMAN FARRELL: Empire Center for
24 Public Policy, president, Edmund McMahan.

1 MR. McMAHON: Good morning, and thank
2 you very much. Good morning, Chairman
3 Farrell, good morning, Chairwoman Young,
4 Senators and Assemblymembers.

5 I'd like to highlight in my testimony
6 today two particular tax-related proposals in
7 the Executive Budget and then turn to a third
8 tax policy concern that I believe has been
9 overlooked in the Executive Budget that
10 deserves your attention.

11 The first area is small business tax
12 cuts, which have been alluded to here today.
13 As you know, the budget calls for a further
14 reduction in state taxes on owners and
15 shareholders of farms and small businesses,
16 including limited partnerships. Given the
17 income eligibility limits for this tax cut,
18 what you're talking about really is the
19 smallest end of the small business scale.

20 Now, \$298 million may sound like a lot
21 of money, but when you whack it into a
22 million pieces, you end up with an
23 exceedingly modest tax cut, first of all.

24 Second of all, the issue of the

1 minimum wage has been raised here today. And
2 generally in news reporting on this issue,
3 there's been some link made in some minds
4 between this proposal and the minimum wage
5 increase, the proposal to raise the minimum
6 wage to \$15 an hour.

7 I think it's important to point out
8 that the proposed tax cut wouldn't even begin
9 to offset a fraction of the cost small
10 businesses would incur as a result of the
11 minimum wage increase. The added expense of
12 a \$15 minimum wage, in fact, will easily
13 exceed the entire state tax liability of a
14 typical small firm employing workers making
15 between \$9 and \$15 an hour. It will be many
16 times -- and you could easily conceive of
17 situations in which the -- in fact, this tax
18 cut, the cost of the minimum wage would be
19 hundreds of times the value of this tax cut.

20 So my point is that whatever other
21 merits this tax cut has or doesn't have, it
22 should never be discussed or considered in
23 the same context as the minimum wage
24 increase. There's no conceivable tax cut

1 that could even begin to make up for the
2 economic or business impact of a minimum wage
3 increase.

4 The second issue I'd like to talk
5 about is the Thruway toll credit, the
6 so-called "tax cut" in the Governor's
7 proposal which would devote \$340 million over
8 three years to reimburse motorists for half
9 their Thruway tolls. This proposal is
10 objectionable on several grounds.

11 To begin with, if the toll credit is a
12 solution, what exactly is the problem? After
13 all, tolls on the New York State Thruway are
14 not out of line with tolls on other
15 interstate toll systems. In fact, they're
16 lower than some neighboring toll systems. At
17 the same time, the Thruway has continuing
18 significant capital needs that go well beyond
19 the cost of replacing the Tappan Zee
20 Bridge -- which, I would point out,
21 previously generated tolls that helped
22 subsidize the entire system.

23 And oh, by the way, if you do the
24 quick arithmetic, which drivers on the

1 Thruway system will most rapidly and readily
2 collect tax credits from this proposal? It
3 would probably be people who, in the space of
4 less than a month, rack up tolls crossing the
5 Tappan Zee Bridge, not people in upstate
6 New York -- not that there is any regional
7 preference that should be shown to this.

8 The most objectionable aspect of this
9 proposal is that it represents a completely
10 inappropriate use of a highly unusual
11 one-shot infusion of revenues. At a time
12 when capital resources are scarce and
13 infrastructure needs are great, you're being
14 asked to basically squander \$340 million.

15 This proposal does not deserve support
16 in any corner of New York State. It's an
17 indefensible gimmick, a bad idea, a flat out
18 waste of money that could be better spent on
19 actual capital purposes. And if we had more
20 time, I'd try to share with you what I really
21 think of it.

22 (Laughter.)

23 MR. McMAHON: Last but not least, the
24 "unfinished business" category, which is very

1 important. Two years ago, at Governor
2 Cuomo's initiative, you took the very, very
3 important step of raising New York's estate
4 tax exclusion -- the taxable threshold for
5 estates -- from \$1 million to match the level
6 of the federal estate tax, which is currently
7 about \$5.5 million and rises with inflation.

8 While we will remain one of a very few
9 states that impose any estate tax, the reform
10 was a huge step forward, and it really takes
11 the cloud of a death tax away from hundreds
12 of thousands of families, small businesses
13 and farms around the state.

14 Unfortunately, the legislation also
15 preserved outdated aspects of the old estate
16 tax law, including a steep tax cliff just
17 above the level of the exclusion. The
18 result, as has been estimated, is you
19 actually have people who would hit a
20 confiscatory 164 percent marginal tax rate.

21 Consider this situation. A family
22 farmer's surviving children could find an
23 extra combine in the barn after dad dies, and
24 find themselves taxed at the same level as a

1 Rockefeller heir.

2 This is a mistake. You can fix this,
3 and you really ought to. This is not
4 consistent with the goals you or the Governor
5 had when you did that tax cut. So you should
6 revise that in the next budget, I would
7 suggest.

8 In conclusion, the biggest loose ends
9 of all in the tax code continue to surround
10 and ensnarl the personal income tax. The
11 major elements of the tax brackets at just
12 about every level, and the temporary indexing
13 provision are, as I indicated, totally
14 temporary. They expire again at the end of
15 2017.

16 Our high top income tax rate, which
17 since 2009 has been among the highest imposed
18 in any major industrial state, is an economic
19 negative because it creates a disincentive to
20 work, save and invest here. You can see the
21 revenue that comes in from this. What you
22 don't see is the revenue you lose, now and in
23 the future, by discouraging wealth creation
24 and investment in New York.

1 Economic considerations aside, fiscal
2 stability is another substantial reason to
3 begin to phase out the so-called millionaire
4 tax. About 43 percent of personal income tax
5 receipts now come from the top 1 percent of
6 filers -- people whose incomes begin just
7 below a million dollars. That means that
8 27 cents out of every dollar the state
9 collects from all tax sources will be
10 generated by fewer than 100,000 taxable
11 households.

12 Now, since the recession -- the
13 comment was made that we have tackled the tax
14 burden. I would point out that since the
15 recession, New York has not reduced state
16 taxes -- repeat, not. In fact, you've
17 increased the overall state tax burden since
18 the recession. Instead of reducing taxes,
19 you have raised and redistributed the tax
20 burden. The so-called millionaire tax, which
21 didn't exist before the recession, will raise
22 nearly \$4 billion this year. About
23 three-quarters of that amount has been or is
24 in the process of being redirected for

1 purposes described as "tax cuts," some of
2 them temporary. This is the answer to
3 Assemblyman Farrell's question "Where is the
4 money coming from?" That's where it's coming
5 from.

6 There are clear risks associated with
7 depending so heavily on such a small number
8 of taxpayers. It means when the high-income
9 taxpayers have a bad year, the entire state
10 suffers inordinate stress. It's happened
11 before, and it could happen again. It could
12 happen again very soon. Let me point out
13 that the budget projects a 5.3 percent
14 increase in the capital gains income of
15 New York residents. That income largely
16 flows through high-income households, where
17 it's taxed at the top rate.

18 That projection of a 5.3 percent
19 increase in capital gains income assumes the
20 Standard & Poor's 500 will grow at a modest,
21 relatively low 2.2 percent level this year.
22 Well, given what's been going on in the
23 market, that would require the S&P to rebound
24 in the next 11 months by 6 percent. Wait a

1 minute, check that -- based on this morning's
2 ticker, by 7.5 percent over the next
3 11 months. That could happen. Then again,
4 maybe it won't.

5 In the fourth quarter of 2015, the
6 Labor Department's Index of Coincident
7 Economic Indicators declined for two months
8 in a row for the first time since the
9 recession. The subsequent statistical reset
10 may eliminate that. That happened last year,
11 too. However, I'd also point out that the
12 New York Federal Reserve's Index of
13 Coincident Indicators, which is calculated on
14 a different basis, has New York State's
15 economic indicators decreasing at an annual
16 rate in December. Which is also the first
17 time since the recession, if it holds up
18 after rechecking.

19 These are caution flags. So in
20 conclusion, I would suggest tax policy, in
21 concert with all spending and regulatory
22 policy, needs to reflect economic reality
23 even as it seeks to improve the economic
24 outlook. We need to carefully rebalance the

1 redistribution of New York's tax burden with
2 the twin goals of making the state more
3 competitive and protecting against economic
4 shocks, which are inevitable sooner or later.

5 With that, I'll conclude my testimony,
6 and thank you very much for your forbearance.

7 CHAIRMAN FARRELL: Thank you.

8 CHAIRWOMAN YOUNG: Thank you.

9 CHAIRMAN FARRELL: Mr. Oaks.

10 ASSEMBLYMAN OAKS: Yes, thank you,
11 E.J. A couple of things.

12 I actually just read in my notes while
13 we were sitting here today that there is a
14 proposal by some of my colleagues in the
15 majority on the Assembly side coming out
16 today that would raise tax rates on some of
17 those higher earners and put us in a position
18 of being further more dependent as we go
19 forward.

20 The impact of that -- I mean, in your
21 mind you raised a caution flag on that of
22 saying we are more dependent today than we've
23 ever been. Doing something like that would
24 make us even further dependent. Additional

1 comments, you know, related to that?

2 MR. McMAHON: The easiest way to
3 describe that is I think -- it's as if you
4 have a group of people who say we want to
5 rise higher and get a better view, and they
6 climb higher and higher and higher up a tree,
7 and they are now -- you want to climb further
8 and further and further out on a slender
9 limb. That's what that represents, the
10 proposal as I understand it.

11 It's also interesting to me, I've been
12 here long enough so that 29 years ago, a
13 brand-new Assembly Speaker opened his tenure
14 by proposing a sweeping tax reform that
15 featured a flat tax at a rate of 6.5 percent.
16 How times change. I think the arguments for
17 that plan actually were and remain stronger
18 than the arguments for the plan I heard
19 described yesterday.

20 So, I mean, that issue could be talked
21 about all day long, but I think that that is
22 highly problematic, that the phenomenon I
23 talked about at the end of my testimony would
24 be even more pronounced if that policy was

1 enacted.

2 ASSEMBLYMAN OAKS: Do we have any
3 sense on when we did -- or when the
4 Legislature and the Governor put forth the
5 increase before and we increased on the upper
6 levels? Do we have any numbers that you're
7 aware of of whether we have today more people
8 in that bracket, fewer people --

9 MR. McMAHON: We have more people in
10 that bracket.

11 ASSEMBLYMAN OAKS: Okay.

12 MR. McMAHON: That tax was imposed at
13 a time -- at a very low point when it came to
14 the incomes of high-income households,
15 particularly because of capital gains losses
16 because there had been a 20 to 30 percent
17 drop in stock values. So you had a lot of
18 people who fell below that level.

19 As stock prices recovered and as,
20 frankly, federal policy and the Fed's
21 policies followed a path that was actually
22 meant to drive more profits to New York's
23 financial sector, in effect, that sector
24 recovered, the city recovered, and those

1 incomes recovered. And that is why the taxes
2 from that segment of the population have
3 grown back -- not as high as they were
4 without the tax cut as a share of all income
5 before the recession, by the way. But
6 certainly a full recovery if you include the
7 tax increase.

8 ASSEMBLYMAN OAKS: My other question
9 relates to -- you talked some about the
10 minimum wage and its possible impact as well
11 on certain businesses, especially businesses
12 that may pay low wages and a lot of small
13 ones that are fledgling or trying -- that's
14 what the market may allow them to bear. And
15 we know there's going to be impacts on all
16 different sectors. But we've seen some
17 numbers -- this is more of a question I don't
18 know if you have research on or not. We've
19 seen different numbers thrown around that say
20 if we go to this, we'll lose so many jobs.

21 MR. McMAHON: Right.

22 ASSEMBLYMAN OAKS: Do we have a sense
23 by sector, numbers of jobs --

24 MR. McMAHON: No.

1 ASSEMBLYMAN OAKS: In other words, I
2 mean I'm most concerned -- I think there are
3 some adjustments that are going to take
4 place, obviously, in the nonprofit sector and
5 public schools and others. You know, will
6 people hire fewer, will we tax greater in
7 those? The ones I'm most concerned about,
8 very honestly, are those that are making a
9 product or growing a product, having to sell
10 it competitively against other states or
11 internationally where the prices of labor may
12 be significantly different, and their
13 competitiveness.

14 So I'm wondering if in those sectors
15 we are anticipating higher numbers.

16 MR. McMAHON: The short answer to your
17 question is no, on a systematic basis. But
18 here's what your common sense can tell you.
19 Here's an example that I've used.

20 Across upstate New York, the regions
21 of upstate New York, there are roughly 12,000
22 people in the occupation described as
23 childcare worker. The median wage for people
24 in the occupation childcare worker throughout

1 upstate New York -- the median all regions --
2 is from the low 9s to less than \$10 an hour.
3 Or was; this is as of 2014. The median.
4 That means half of childcare workers make
5 less than that.

6 Childcare work, of course, is
7 regulated by the state. These are workers in
8 regulated childcare establishments. There is
9 no -- there is and can be no staffing change
10 in a childcare setting. So that won't
11 happen.

12 What will happen is that in an
13 industry that has a median wage just over
14 \$9 an hour, a forced rise of the minimum wage
15 to \$15 will result in an almost dollar-for-
16 dollar increase in costs. And those costs
17 will be borne from everybody from working
18 class, lower-income working class people,
19 many of whom have their childcare subsidized
20 by the state, up to middle-class people who
21 struggle to pay their childcare bills.

22 That is one of those industries where
23 it's dollar for dollar. I've been involved
24 in discussions with industries -- there is a

1 small job shop manufacturing, a small but
2 still thriving job shop manufacturing sector
3 through much of upstate New York still --
4 less so in downstate -- of people who make
5 all sorts of different things: Apparel, you
6 know, grommets, you name it. You know,
7 pieces of computer equipment. Things you
8 don't think of, they make a piece of it, and
9 they do it in relatively small quantities,
10 and so it's labor-intensive. They tend to
11 pay -- they don't pay minimum wage, but they
12 tend to pay, say, \$11 or \$12 an hour,
13 especially starting.

14 Those people will tell you, and I'll
15 get you their names, they compete with
16 companies across the country to supply --
17 it's not still 100 percent Chinese suppliers.
18 They supply, you know, the Defense
19 Department, they supply other larger
20 producers of products. They will not be able
21 to compete with their -- they have
22 competitors in other states who will be able
23 to beat them more easily on price because of
24 this. So that's another issue.

1 One last thing, there's tradeoffs in
2 taxes, and one was raised earlier. When you
3 come raising the minimum wage, for instance,
4 fewer people are eligible for a tax refund
5 through the earned income credit.

6 On the other hand, wages are a
7 deductible business expense. I would ask you
8 to ponder what happens to tax receipts when
9 you add \$20 billion in deductible business
10 expenses. The business is still paying the
11 wage and having to deal with that issue, and
12 it has an impact on employment. If you want
13 to think about tradeoffs in tax revenues,
14 there are tradeoffs on the negative as well
15 as the plus side, unintended consequences of
16 all sorts.

17 So that's just the beginning of it.
18 Again, I could give you some names of some of
19 these people who talked about this.

20 ASSEMBLYMAN OAKS: Thank you very
21 much.

22 CHAIRMAN FARRELL: Thank you.
23 Senator?

24 CHAIRWOMAN YOUNG: Thank you.

1 I guess I'd like to start with a
2 question.

3 And first of all, President McMahon,
4 always appreciate your testimony very much,
5 and just want to say that I'm glad to see
6 that you're finally coming out of your shell.

7 MR. McMAHON: Thank you.

8 CHAIRWOMAN YOUNG: I've always known
9 you to be quiet, reserved and shy, and you're
10 starting to loosen up. So that's great. So
11 thank you for that.

12 MR. McMAHON: With coaching, it's
13 getting better.

14 CHAIRWOMAN YOUNG: With coaching, very
15 good.

16 (Laughter.)

17 CHAIRWOMAN YOUNG: This is a serious
18 question, however. And as you know, GE
19 recently chose Boston, Massachusetts, over
20 New York State or Connecticut as the site for
21 its new corporate headquarters. So given our
22 recent efforts to cut corporate taxes in
23 New York, can we draw any lessons for tax
24 policy and business climate from the GE move?

1 obviously probably would improve our ranking
2 on that scale.

3 But I would point out, our corporate
4 tax was never as out of line, especially when
5 you built in the other credits and factors of
6 our corporate tax, as our income tax now is.
7 And so I would point out that Massachusetts
8 has a flat-rate income tax that tops out at
9 5.1 percent. We have an income tax that in
10 its permanent form is 6.9 and tops out at
11 8.8. For the 800 people who will be working
12 in the GE headquarters in Massachusetts, it's
13 clearly not the factor, but it's certainly
14 not a factor to completely ignore, either.

15 The overriding issue with the income
16 tax is that those people will -- most of
17 those people, certainly from the
18 mid-management levels up, will save
19 thousands, in many cases tens of thousands of
20 dollars in taxes from being in Massachusetts
21 rather than New York. Collectively, it could
22 reach a million dollars or millions for the
23 people working in that headquarters. That's
24 not an insignificant factor.

1 Massachusetts has much lower property
2 taxes, as we know. That's largely a factor
3 of having 35 years of Prop 2½, which is why
4 Prop 2½ was the Governor's model for his tax
5 cap in a general way. That is another
6 important factor.

7 I think that the problem is that in
8 the last few years, all of the things you've
9 been doing about property taxes have been to
10 target it, to basically throw targeted rates
11 at homeowners. That doesn't reduce the
12 overall tax burden. For businesses, there is
13 also a targeted rate for --

14 CHAIRWOMAN YOUNG: With the property
15 tax cap, however, that's out.

16 MR. McMAHON: But Massachusetts has
17 not done things like that. They basically
18 did things that resulted in a lower overall
19 tax burden. So the property tax burden in
20 Boston is significantly lower, not just than
21 New York City but Auburn.

22 So those are some of the tax factors
23 that I think came into play. And I think
24 that if you want to draw any tax lesson from

1 it, one tax lesson would be don't completely
2 ignore the impact of the personal income tax,
3 which surely was one of many factors that
4 they thought about. Because the thing
5 Connecticut has been doing, relentlessly and
6 repeatedly over the past decade, it has been
7 increasing its income tax. It had no income
8 tax when GE went there 40 years ago. It
9 started to have an income tax 25 years ago,
10 and it has raised it repeatedly in recent
11 years. And I would suggest to you that that
12 was one of the factors that drove them out of
13 Connecticut.

14 CHAIRWOMAN YOUNG: Thank you for that
15 answer.

16 CHAIRMAN FARRELL: Assembly? Senate?

17 SENATOR KRUEGER: Hi. Nice to see
18 you, E.J.

19 So when the tax commissioner was here
20 earlier -- I'm not sure whether you were in
21 the audience yet -- I was asking him about
22 any review his department was doing on the
23 Governor's Tax Reform Commission proposals, I
24 guess from December 2013 now. And in there,

1 they're recommending exploring changing or
2 even doing away with our business tax credit
3 system, and suggest that that could instead
4 be turned into dramatic across-the-board
5 lowering of business taxes.

6 You've already testified today why you
7 think the Governor's small business tax
8 proposal in this budget isn't going to
9 address the real problems. What's your
10 opinion about doing away with the business
11 tax credits and lowering our across-the-board
12 tax rate?

13 MR. McMAHON: I strongly agree with
14 what I take to be the premise of your
15 question, which I think refers to the Solomon
16 Commission. Because you remember the
17 Governor had two commissions.

18 SENATOR KRUEGER: Correct. That is
19 the report I'm referencing.

20 MR. McMAHON: I think that was an
21 excellent report, and I think it's also -- it
22 had an excellent appendix, which was less
23 well known, but perhaps even more valuable.

24 The general thrust of most of the

1 recommendations in that report I think are
2 very much in the right direction and deserve
3 to be considered. And if the Tax Department
4 will not consider them, because after all the
5 Tax Department works for the Governor,
6 perhaps you should consider them. There's a
7 lot of good ideas in there about cleaning up
8 the growth of the underbrush in the tax code
9 that make it inefficient and inequitable.
10 And I agree with the thrust of many of those
11 recommendations.

12 SENATOR KRUEGER: And do you agree
13 that the money we could glean from doing away
14 with -- I think this report talks about
15 \$2 billion in business tax credits -- if
16 applied to a lowering of the small business
17 needs in the state, could make a dramatic
18 impact on their competitiveness?

19 MR. McMAHON: Yes, in general, if you
20 cleared away a lot of the exceptions and
21 exclusions from the business tax -- which
22 also apply to the personal income tax levy --
23 you could get closer to the goal, which is a
24 widely advocated goal among academics in tax

1 policy of all stripes, of striving to have a
2 broader tax base with lower rates, that
3 that's less distortive, economically, and
4 it's a better policy.

5 So yes, I think that that's a good
6 direction to go in.

7 SENATOR KRUEGER: Thank you.

8 And you also reference that the
9 property tax cap, even though you were
10 talking about agreeing with some of the goals
11 of it, has had a negative impact
12 disproportionately on homeowners. I think
13 you just said that.

14 MR. McMAHON: No, I said that what
15 you've been doing as a group, as a
16 Legislature, has been to direct more targeted
17 tax benefits, in the name of offsetting
18 property tax burdens, only for homeowners.

19 SENATOR KRUEGER: Only, excuse me.

20 So I was asking the tax commissioner
21 about reevaluating the way we do assessments
22 and the fact that we have a thousand
23 different property tax assessment units in
24 this state. Do you think that would help us

1 address the inequities and some of the
2 strange outcomes we're seeing from our
3 current property tax policies?

4 MR. McMAHON: Yes, in a word. I think
5 that -- I agree with the premise of that
6 question also. I think the tax
7 administration system is a bigger and bigger
8 mess the closer you get to basically the
9 middle of Manhattan, geographically.
10 Westchester is really bad and a hodgepodge
11 and an indefensible patchwork system. Nassau
12 is horrific in its own way, sharing the basic
13 structure of New York City, which those of
14 you from New York City know is really, really
15 bad.

16 And of course the political concern,
17 which I don't have to worry about but which
18 you do, is that whenever you seek to go into
19 and modernize and streamline a tax
20 administration system and make it more fair,
21 there are losers as well as winners. The
22 losers take notice sooner and scream louder.

23 But there's a huge, huge problem with
24 the administration of property taxes --

1 I wasn't going to try to use my few minutes
2 to go into that.

3 But I did raise the question earlier
4 with the tax commissioner, because I do think
5 there is so much we can do at the state
6 level. And I didn't really get, to be
7 honest, the answer I was hoping to hear, so I
8 -- I was hoping I might hear it from you, so
9 I appreciate that.

10 MR. McMAHON: Well, I agree. And I'm
11 assuming, in his defense, again, that's a
12 policy perspective that has to begin higher
13 up. But I also agree with the premise of
14 that question.

15 SENATOR KRUEGER: Thank you very much.

16 MR. McMAHON: You're welcome.

17 CHAIRMAN FARRELL: Thank you.

18 One question. Sol Weprin, flat tax,
19 29 years ago?

20 MR. McMAHON: No, Mel Miller.

21 CHAIRMAN FARRELL: Oh, Mel Miller. He
22 was before that 29.

23 MR. McMAHON: It was -- when he
24 took -- that was his initiative, you may

1 recall, when he replaced Sol. Or not Sol,
2 when he was -- before Sol. Sorry. Yes.

3 ASSEMBLYWOMAN GALEF: Just a very
4 quick question.

5 Have you done an analysis on the New
6 York City taxing situation and come up with a
7 plan that you could share?

8 MR. McMAHON: No. But there have been
9 excellent -- between the IBO and the Citizens
10 Budget Commission and a conference they held
11 on this subject a couple of years ago, I
12 think the path to what really would be the
13 best reform is clear. I just think what's
14 lacking is the will to get there.

15 ASSEMBLYWOMAN GALEF: Thank you.

16 CHAIRMAN FARRELL: Thank you very
17 much.

18 SENATOR KRUEGER: Thank you.

19 MR. McMAHON: Thank you.

20 CHAIRMAN FARRELL: Ron Deutsch,
21 executive director, Fiscal Policy Institute.

22 CHAIRWOMAN YOUNG: Welcome.

23 MR. DEUTSCH: Thank you, Chairpersons
24 Farrell and Young. And I'd like to thank the

1 distinguished members of the committee for
2 the opportunity to speak with you here today.

3 I know I'm going to have to do the
4 Reader's Digest abbreviated version of my
5 testimony. I gave it to you; you can read it
6 at your leisure. I don't need to read it to
7 you today. So I just wanted to touch on a
8 number of different issues, if I could,
9 that were touched on here today.

10 I certainly agree with my friend E.J.
11 McMahon, who spoke before me, that -- and
12 don't take this as a big shock, but the
13 \$340 million in Thruway toll credits, I don't
14 agree with. I also agree that those should
15 be reprogrammed. Infrastructure is always a
16 good investment. But I also think that that
17 \$340 million could be directed into
18 antipoverty initiatives which are only funded
19 at \$25 million as part of the \$2.3 billion
20 bank surplus. So that might be a better use,
21 potentially, of that money.

22 Surprisingly, I don't agree with many
23 of his other assertions.

24 (Laughter.)

1 MR. DEUTSCH: But what I would suggest
2 is I want to discuss three things. One is
3 the 2 percent state spending cap; the other
4 is the education tax credit; and finally, the
5 personal income tax surcharge is set to
6 expire in 2017.

7 So with regard to the 2 percent state
8 spending cap, I think we're artificially
9 keeping spending low right now. Total tax
10 receipts, adjusted gross income, personal
11 income growth are all expected to grow
12 between 4 and/or 6 percent over the next four
13 to five years -- yet we're artificially
14 keeping spending below 2 percent. This
15 obviously is nothing in statute, this is a
16 self-imposed 2 percent spending cap.

17 And while that may sound, to some
18 people, to control spending, the result, if
19 you look in the financial plan, is outyear
20 cuts to the magnitude of around \$10 billion
21 through 2020. Most of those cuts right now
22 are unspecified. We don't even know what
23 we're going to be cutting, but we know, in
24 order to stay below this 2 percent cap, we're

1 going to have to cut those.

2 So I would suggest that we would be
3 able to make room for a lot of spending in
4 the budget -- and the Governor lays out a lot
5 of ambitious spending plans. We'd be able to
6 fund those a little bit better if we were to
7 lift that 2 percent state spending cap.

8 With that said, let me move to the
9 education tax credit, because I believe
10 you're going to hear from a number of people
11 who are greatly in support of this tax
12 credit.

13 Myself, I look at the Governor's
14 proposal and I look at the Senate proposal,
15 and I would say that this is misguided tax
16 policy. I would suggest that the
17 \$150 million in the Governor's proposal and
18 the \$225 million in the Senate proposal both
19 are excessive and provide very excessive tax
20 credits of 75 percent in the Governor's
21 proposal and 90 percent in the Senate
22 proposal, to wealthy individuals or
23 individuals and corporations that want to
24 reduce their tax liability by donating money

1 for scholarship funds.

2 So I know this is being done under the
3 guise of we're trying to give poor students a
4 better education. I'm all for that as well.
5 I want to give poor students a better
6 education. But I think a better use of this
7 money would be to invest it in the Community
8 Schools Initiative. Kids in our priority
9 and/or struggling and/or failing schools,
10 whatever we're labeling them today, have some
11 very common characteristics. Eighty-three
12 percent are in economically disadvantaged
13 families; 78 percent, free and reduced-price
14 school lunch; 12 percent or so are English-
15 as-a-second-language learners; nine out of 10
16 are living in minority communities. So those
17 are the issues that need to be addressed if
18 we want to provide a better education and
19 better educational outcomes.

20 Fifty percent child poverty rates in
21 our upstate cities. First of all, that's
22 unconscionable. Second of all, the
23 50 percent child poverty rates in Rochester,
24 Buffalo and Syracuse mirror approximate

1 50 percent graduation rates in those same
2 cities and school districts as well.

3 So I would suggest there's a strong
4 correlation between poverty and educational
5 outcomes that needs to be addressed, and we
6 need to make sure that our priority schools
7 get the resources they need to provide a
8 quality education. So I know that this is
9 being done to say that we need to provide
10 low-income students with better educational
11 opportunities, but in the case of the
12 Governor's bill you can get a scholarship if
13 your family income is up to \$250,000, and in
14 the case of the Senate bill, you get a
15 scholarship if your income is up to half a
16 million dollars in your family. I don't
17 think that that's a poor -- I don't think
18 that those are scholarships going to children
19 in poor families.

20 So I would question the wisdom of this
21 tax credit. And I would also suggest that
22 you're really giving up your duty as elected
23 officials to direct state tax dollars for
24 educational purposes and giving it over to

1 private individuals and corporations.

2 So finally, I would say that the
3 income tax surcharges that were put in place
4 through 2017 are set to expire. I'm proud to
5 say that, Assemblyman Farrell, you released a
6 bill today that in fact restores a great deal
7 of progressivity to our personal income tax
8 structure. I disagree with E.J. in
9 suggesting that we're putting too much
10 pressure on the wealthy. In reality, the
11 wealthiest 1 percent in New York City get
12 about 39 percent of all the income in
13 New York City. So it's no wonder that they
14 pay a large percentage of the personal income
15 tax; it's simply by function of the fact that
16 they control a majority of the income. So
17 that's something you need to consider as
18 well.

19 So what we would suggest is -- and
20 we've put out our own plan today as well, and
21 it somewhat mirrors the plan that you put
22 forward, Assemblyman. And we thank you for
23 that. But we would propose income tax
24 brackets starting at over \$665,000, which

1 represents the top 1 percent or so of
2 New Yorkers. So we would add some additional
3 brackets -- and you can see this on page 9 of
4 my testimony, the bracket structure that
5 we're proposing -- so that it goes from those
6 earning \$665,000 a year up to a million
7 dollars would see their rate go from 6.85
8 percent to 7.65 percent; those earning
9 between a million and 2 million would see
10 their rate go to 8.82 percent; and those
11 earning between 2 and 10 million,
12 9.35 percent; between 10 and 100 million,
13 9.85 percent; and above 100 million,
14 9.9 percent.

15 Now, those rates are below or similar
16 to states such as California, Oregon,
17 Minnesota, so this is not anything that's out
18 of the realm of reason. We certainly think
19 that given the fact that the wealthiest
20 New Yorkers have seen literally all the
21 income gains since the Great Recession, and
22 are doing quite well -- and as some of you
23 have already noted, the number of
24 millionaires in New York is growing, it's not

1 shrinking. So these folks aren't leaving in
2 droves as a result of the current
3 8.82 percent rate.

4 I would suggest that we would be
5 better served by increasing the top tax rates
6 and making them permanent so we have a
7 permanent structure in place and we know
8 exactly how much revenue generally we'll be
9 getting on a year-to-year basis, rather than
10 continuing to toy around with temporary rates
11 that expire at a given point in time.
12 Because the financial plan itself reflects
13 the fact that the income tax surcharges that
14 are in place right now will be expiring.

15 So I think we'd be better served to
16 take that money, and under our plan we
17 actually generate about 2.3 billion while
18 maintaining a billion dollars in the, quote,
19 unquote, middle-class tax cuts that were
20 enacted by the Legislature and the Governor
21 in 2011.

22 So I think that those funds could be
23 used to certainly lower property taxes, which
24 I would suggest are the true burden of

1 taxation for middle-class families. If you
2 look at who pays taxes as a percentage of
3 income in New York State, you find that the
4 wealthiest 1 percent pay a much smaller
5 percentage of their income in state and local
6 taxes than do the middle three quintiles,
7 let's say.

8 So I would suggest that the folks in
9 the middle that are paying anywhere from 11
10 to 12 percent of their income in state and
11 local taxes are the ones that really need a
12 tax break.

13 And to address one of the questions
14 you raised, Senator Krueger, regarding some
15 of the business subsidies, in the Solomon
16 Commission, Solomon-McCall Tax Commission,
17 there was a report that Peter Solomon
18 commissioned by Donald Boyd and Marilyn Rubin
19 that really suggested that these business tax
20 credits were simply pure folly and weren't
21 needed.

22 So if you were to eliminate those
23 \$2 billion or so in tax credits and
24 subsidies, I would suggest you could

1 virtually eliminate the entire local share of
2 Medicaid for upstate New York, which would go
3 a long way to reduce property taxes for a
4 vast majority of New Yorkers and for
5 businesses at the same time.

6 So you want to couple that with
7 \$8 billion in economic development spending
8 that goes to dubious programs and/or job
9 creation promises, I would suggest that
10 there's plenty of money within our existing
11 budget to lower property taxes across the
12 board in a way that's very responsible and
13 also make sure that we're not putting undue
14 pressure on our local governments and on our
15 schools, as we are doing right now with the
16 local property tax cap, given the fact that
17 it's at 0.12 percent, virtually at zero right
18 now, which is going to result in hundreds of
19 millions in lost revenue at the local level.

20 So I will end there. I appreciate
21 your time and would be happy to answer any
22 questions you might have.

23 CHAIRWOMAN YOUNG: Senator Krueger.

24 SENATOR KRUEGER: Thank you.

1 Thank you, Ron.

2 So the new proposal that you're making
3 today -- which apparently is parallel to the
4 Assembly proposal, which, since we've all
5 been in here, perhaps we didn't have a chance
6 to see that one. So looking at your chart,
7 we're increasing the taxes for people --
8 we're keeping the, quote, unquote -- I hated
9 the term millionaire's tax, so I didn't like
10 to use it, but we are keeping that in place
11 after the sunset clause, and then we are
12 increasing a variety of new categories above
13 \$665,000? Is that what you were suggesting?

14 MR. DEUTSCH: Yes.

15 SENATOR KRUEGER: Okay. And that's
16 going to bring in, you project, an additional
17 \$2.2 billion, or the whole thing's staying in
18 place plus the addition above the --

19 MR. DEUTSCH: The changes that we
20 would propose at the top end would bring in
21 an additional 2.3 billion, while maintaining
22 a billion dollars in, quote, unquote,
23 middle-class tax cuts for folks under
24 \$300,000 a year.

1 SENATOR KRUEGER: So some people
2 always say if you raise the taxes on the
3 highest-income people, they won't actually
4 live here anymore.

5 I happen to represent I think the
6 wealthiest district in the state. And
7 actually I can tell people they're sort of
8 pretending they're not living here now. They
9 by disproportionate numbers are defining
10 themselves as living out of state one day
11 more than half of the year. I have in my
12 district huge numbers of new buildings that
13 are purchased but empty, and there are
14 apartments that you couldn't possibly afford
15 unless you were in the top 1 percent. But
16 they're empty because people aren't living
17 there.

18 I'm just wondering, do you think
19 there's any legitimacy to the argument that
20 changing our tax policies are actually going
21 to change the behaviors of people? Or aren't
22 many of them doing it already anyway?

23 MR. DEUTSCH: Yeah, I guess I would
24 suggest that, you know, for all the folks

1 that have been naysayers about these income
2 tax surcharges over the years, certainly the
3 number of millionaires since we've instituted
4 the surcharges have been growing, not
5 shrinking. People are making their millions
6 in New York, they're not going to flock to
7 Mississippi to make that same amount of
8 money, the same way that profitable
9 businesses in New York, despite the Tax
10 Foundation rankings, aren't moving to
11 Wyoming, which they suggest is the number-one
12 state in terms of business friendliness.

13 So the reality is there's a huge
14 consumer base here in New York that are
15 purchasing goods and services, and these
16 businesses are making lots of money in
17 New York State, so they'll stay here. The
18 wealthy are making their money in New York
19 State, so they will stay here as well.

20 We actually worked with a group called
21 Responsible Wealth a couple of years ago
22 where we had a hundred extremely wealthy
23 people, New Yorkers, as a matter of fact,
24 sign a letter saying that these income tax

1 surcharges would in no way, shape or form
2 affect their quality of life and that they
3 wanted to be more helpful and part of a
4 solution to better funding our schools, to
5 better funding public services. So they were
6 fine with the extension of the income tax
7 surcharges.

8 SENATOR KRUEGER: And following up on
9 my story, which may be relatively unique to a
10 certain number of districts, is there any way
11 to capture more tax income from people who
12 live in New York State one day short of half
13 the year, use our services, participate in
14 all the great things that we have, but then
15 somehow seem to avoid taxes that so many of
16 us other people pay?

17 MR. DEUTSCH: Yes. I mean, I think,
18 you know, the Fiscal Policy Institute has
19 made some proposals in the past for what we
20 would call a pied-à-terre tax, you know, that
21 large condo or, you know, multimillion-dollar
22 dwelling that out of state residents
23 purchase, and we would suggest that there be
24 a modest tax placed on those as well in order

1 to help ensure that those folks are paying
2 for services that are provided throughout the
3 city and/or the state.

4 So I think there's ways to do that
5 that make sense, and we've certainly proposed
6 them in the past and stand by those.

7 SENATOR KRUEGER: Thank you.

8 CHAIRMAN FARRELL: Thank you very
9 much.

10 MR. DEUTSCH: Thank you.

11 CHAIRMAN FARRELL: Joseph Falbo, Jr.,
12 president, New York State Society of
13 Certified Public Accountants.

14 MR. FALBO: Good morning.

15 CHAIRMAN FARRELL: Good morning.

16 MR. FALBO: I think. Good afternoon,
17 possibly.

18 CHAIRMAN FARRELL: Oh, yeah.

19 ASSEMBLYWOMAN GALEF: Good afternoon,
20 yes.

21 MR. FALBO: Thank you, Mr. Chairman.

22 Good afternoon, members of the
23 Assembly and the Senate. My name is Joe
24 Falbo, and as mentioned, I am the president

1 of the New York State Society of Certified
2 Public Accountants. The New York State
3 Society of CPAs is one of the largest
4 accounting organizations in the country,
5 representing more than 28,000 professionals
6 that live and work in New York State.

7 Among the regulated professionals,
8 CPAs have the strongest connection to this
9 state's vast and diverse economy. I suggest
10 there is not a sector of business in this
11 state that does not engage with a member of
12 the accounting profession. At the society,
13 we foster this widespread connection by
14 engaging 15 regional chapters and more than
15 60 technical committees.

16 Our clients see us as their trusted
17 advisors, engaged to help them navigate the
18 difficult road that is at times, as you've
19 heard this morning, doing business in
20 New York State. At the New York State
21 Society, we strive to navigate and make that
22 easier by working with leaders like you to
23 ensure that our members and their clients are
24 treated in a reasonable and equitable

1 fashion. I think we've heard both sides of
2 that story already this morning.

3 The New York State Society directly
4 and actively engages with more than a dozen
5 regulatory agencies throughout the country
6 and the world by providing a real-time
7 technical feedback to their proposals. As a
8 New York State-licensed CPA and the society's
9 chief voluntary leader, I speak on behalf of
10 the organization and the profession at large
11 when I say that certified public accountants
12 are willing, able and ready to partner for
13 progress as you lead our state.

14 I greatly appreciate the opportunity
15 you have afforded me this morning to testify
16 during the tax portion of this hearing, and
17 have come prepared to speak on a number of
18 specific items, some of which you've already
19 heard this morning, so I'll make an attempt
20 to give you the abbreviated version, but I'd
21 like to begin more broadly.

22 CPAs have firsthand experience of the
23 changes in the tax code that you've heard
24 about this morning and the business outcomes

1 they drive. When tax changes are proposed
2 and ultimately passed into law, it's up to
3 the CPA often to interpret what you as our
4 leaders have set into motion. In the most
5 practical sense, we are the ones who must
6 apply and explain the ever-changing rules and
7 regulations to our clients and the taxpayers.
8 We are the technicians in your community.

9 It is heartening to see attempts being
10 made to simplify and unify New York's tax
11 code as outlined in Governor Cuomo's
12 Executive Budget. To state the obvious, tax
13 simplification is a very complex phenomenon.
14 You've already heard this this morning; I
15 need not tell you this. The paradox in the
16 phrase "tax simplification" is a battle to be
17 fought and won when designing and redesigning
18 our tax code.

19 Simplification is a word that means
20 many different things to different people.
21 As I've said, you've heard that from the
22 previous two speakers. The differences are
23 often significant and not subtle.
24 Simplification takes on completely different

1 meanings based on each constituency's
2 perspective.

3 Simplification can lead to lower taxes
4 through higher compliance rates. Taxes
5 collected are equal to taxes imposed
6 multiplied by tax compliance rates. It
7 follows that the higher the compliance rate,
8 the lower the tax rate required yielding the
9 same funding for our government.

10 There are areas where double taxation
11 issues can be eliminated for dual-state
12 residents -- and I think this is something
13 that the Senator was alluding to in her
14 district. As you may know, residents who
15 work or conduct business in more than one
16 state currently face a myriad of tax
17 regulations. We believe improvements in this
18 area can increase compliance.

19 If I may, I'd like to draw a parallel
20 to my U.S.-Canada cross-border practice in
21 Buffalo. I can assure you that it is much
22 easier for me to discuss the income tax
23 filing requirements with my clients from two
24 different countries than it is for me to

1 discuss filing in two different states when
2 New York State is one of those states. The
3 reason being, the federal tax treaty
4 currently in place with Canada, in its most
5 fundamental sense, is rooted in the most
6 basic of concepts. Simply said, no taxpayer
7 will pay tax on the same dollar of income to
8 more than one taxing authority. A fairly
9 simple concept, I believe.

10 Ladies and gentlemen, with the utmost
11 respect to this governing body, pursuit of
12 this very basic concept is the tax
13 simplification all taxpayers seem to
14 understand, appreciate, and I've seen in my
15 practice are willing to actively comply with.

16 In reviewing Governor Cuomo's proposed
17 Executive Budget, we would like to extend our
18 support to the changes outlined in Part Q,
19 which seek to unify tax due dates, and
20 encourage the Legislature to follow suit in
21 their budget proposals. The New York State
22 Society of CPAs began to advocate for these
23 changes in 2011. The spirit in which these
24 recommendations are made is that taxpayers

1 and tax preparers want to prepare and file
2 complete and accurate tax and information
3 returns. The prior due date structure made
4 it difficult and, in some cases, impossible
5 to do so. The resulting inadvertent and
6 sometimes unavoidable lack of compliance does
7 not encourage participation in our tax filing
8 system.

9 We recognize that there's no perfect
10 solution. However, we believe that there's a
11 more logical ordering that will facilitate
12 the ultimate goal of preparing and filing
13 complete and accurate tax and information
14 returns.

15 As you already heard this morning from
16 Mr. McMahon, estate taxes are on the minds of
17 New Yorkers. I would also like to take this
18 opportunity to talk about the New York State
19 Society's position on the recent estate tax
20 reform New York undertook and how it can be
21 further enhanced to truly provide improved
22 equitability to all New Yorkers.

23 We applauded the 2014-2015 budget's
24 efforts to enhance New York's competitiveness

1 compared to other states. The overall
2 objective of this move was noted by Governor
3 Cuomo in his January 2014 State of the State
4 address when he said: "Let's eliminate the
5 'move to die tax,' where people literally
6 leave our state and move to another state to
7 do estate planning."

8 While the changes made that year have
9 been tremendously beneficial, the way in
10 which it ultimately was implemented has left
11 us with a few serious flaws that need to be
12 corrected, as you've heard. Chiefly among
13 those concerns is the tax cliff. And as the
14 tax practitioner in the room, I'm going to
15 attempt to give you some real numbers.

16 Simply put, an estate of \$5,512,500
17 will receive the current exemption, which we
18 appreciate being elevated to \$5,250,000,
19 leaving a taxable estate of \$262,500. This
20 taxable estate of just over a quarter of a
21 million dollars in New York will yield an
22 estate tax liability of \$430,050 -- as you
23 heard this morning, 164 percent of your
24 taxable income. This is not a hypothetical

1 example from my testimony, this is the real
2 math of how it works.

3 This tax cliff goes against any
4 rational hope of making New York State a more
5 favorable environment for its residents
6 planning the later stages of their lives.

7 We also heard from the Senator that
8 there are folks that can afford to move
9 outside the state. And it's unfortunate, as
10 a CPA, that I am professionally and ethically
11 bound to advise my clients that moving from
12 our state is a valid wealth-preservation
13 strategy. As a lifelong New Yorker, that
14 causes me to great pain to have to make that
15 recommendation, I'll be honest with you, but
16 that's the fact of the matter.

17 We have a series of technical
18 corrections to multiple estate tax issues
19 that we have already begun discussing with
20 the New York Department of Taxation and
21 Finance. The society would be happy to meet
22 with any of you to provide further details
23 regarding the technical aspects of our
24 recommendations.

1 In closing, I would like to say on
2 behalf of the New York State Society of
3 Certified Public Accountants, and personally,
4 it's a privilege and an honor to testify
5 before you. We welcome the opportunity to
6 engage further on the tax issues I've
7 addressed or in any way you feel that the
8 state society may be of assistance.

9 Thank you, Mr. Chairman.

10 CHAIRMAN FARRELL: Thank you very
11 much.

12 Senator?

13 SENATOR KRUEGER: Thank you.

14 So yes, as a tax planner you may be
15 advising clients to move out of New York
16 State. And I understand the tax upon
17 death -- but I hate calling it the death
18 tax -- the estate tax issue. And the cliff
19 issue, I actually do understand that.

20 But going back to the other question
21 that I had asked Ron Deutsch from FPI, as a
22 tax professional you will need to recommend
23 to your clients whatever, I suppose, is the
24 lowest taxes for them. But as a New Yorker

1 who cares about New York, what can we do to
2 recognize that people really are living here
3 50 percent of the time and they are often
4 avoiding taxes --

5 MR. FALBO: Certainly.

6 SENATOR KRUEGER: -- that we need as a
7 state, but they've made the decision that
8 when they look at their tax options with
9 their professional and they just keep a
10 careful count or hope nobody else keeps a
11 careful count of how many days they're here
12 or not here, we end up losing a significant
13 amount of revenue.

14 What would you recommend to us that we
15 can do to help keep this revenue here?
16 because I think we're actually keeping the
17 people here much of the time.

18 MR. FALBO: No question. From a
19 practitioner's standpoint, we are keeping the
20 people here. And the state has much to
21 offer, so they don't want to leave. We hear
22 from our clients that they feel forced to
23 leave. And unfortunately, up until last
24 year, they wanted to leave before they passed

1 away, even quicker, because our exemption was
2 over a million dollars.

3 With regard to specific
4 recommendations, I don't know that I would
5 have the time to go into them today, but we
6 are meeting with Tax and Finance to go
7 through our plans. One of the potential
8 opportunities is to apportion income for
9 individuals in a manner that we do for
10 businesses, based on where the income is
11 earned.

12 We're in a regressively mobile
13 society, and income is earned in a specific
14 location. It is sourced. There are nexus
15 issues and there are sourcing issues, much
16 like the federal taxing authority sources
17 income with permanent establishments and the
18 like. There is the potential for doing this
19 for individuals, but it's going to require
20 additional study and analysis to make sure
21 that that would make sense, and then the
22 number of days issue would not even be
23 relevant, there would be sourcing income from
24 where the revenue is earned.

1 SENATOR KRUEGER: So might you have
2 something to share with me outside of the
3 hearing time limits?

4 MR. FALBO: Absolutely. Absolutely.

5 SENATOR KRUEGER: I would appreciate
6 it very much. Thank you.

7 MR. FALBO: Be happy to do so.

8 CHAIRWOMAN YOUNG: We've been joined
9 by Senator Phil Boyle.

10 CHAIRMAN FARRELL: Assemblyman
11 Braunstein.

12 ASSEMBLYMAN BRAUNSTEIN: Thank you.

13 I chair the Subcommittee on Trusts and
14 Estates, and we've been trying to tackle the
15 cliff, the estate tax cliff, for a few years
16 now. And I appreciate the fact that you
17 recognize that if eliminating the cliff
18 entirely is not tenable, you propose
19 smoothing it out. Which is where we've run
20 into trouble. We found that eliminating the
21 cliff would be expensive, and that's where
22 we've had problems.

23 So just in the future, I just want to
24 let you know I'm going to be reaching out to

1 you and hopefully we can construct something
2 where we can smooth it out, and hopefully we
3 can have something proposed this year. So I
4 appreciate that. Thank you.

5 MR. FALBO: And we appreciate that,
6 Assemblyman. And we appreciate the meetings
7 that you've had with the committee chair.
8 And one of those 60 committees I referenced
9 has made several trips and has met with you
10 and some of your staffers, and we appreciate
11 having a seat at that table and providing our
12 input from a practitioner's standpoint. So
13 thank you for involving us in the process.

14 CHAIRMAN FARRELL: Further?

15 CHAIRWOMAN YOUNG: All set. Thank you
16 so much.

17 MR. FALBO: Thank you very much.

18 CHAIRMAN FARRELL: Thank you very
19 much.

20 Darla Romfo, president and COO,
21 Children's Scholarship Fund. And Derrell
22 Bradford, president, New York Coalition for
23 Achievement.

24 MS. ROMFO: Good morning. And thank

1 you, Chairman Farrell and Chairman Young and
2 all of you here this morning for the
3 opportunity to be here.

4 Like you said, I'm Darla Romfo, and I
5 am president of the Children's Scholarship
6 Fund. We're the largest K-8 scholarship
7 program in New York. We serve low-income
8 children, we're a nonsectarian organization,
9 and we've been doing this work in New York
10 since 1999.

11 I'm really pleased and very honored
12 this morning to have some of the people here
13 who have benefited from our program and can
14 articulate actually much better than I can
15 what it really means to them. I want to
16 introduce them.

17 Raesha Cartegena -- could you just
18 raise your hand? She is the parent of a
19 scholarship student currently enrolled at
20 Saint Athanasius School in the Bronx.

21 Jessica Madio is here. She's the
22 academic dean at the Saint Athanasius School
23 in the Bronx, and she can talk about the
24 school-wide positive impact of the

1 scholarships.

2 Kimberly Walch is here. She's
3 currently a sophomore majoring in criminal
4 justice at the College of Saint Rose here in
5 Albany, and she's a former CSF scholarship
6 recipient.

7 Soula Adam, mother of Harry Adam, a
8 CSF scholar currently in the sixth grade at
9 St. Demetrios Greek-American School in
10 Astoria, Queens.

11 And Sara Libeyeme, mother of two
12 children who are also here with us this
13 morning, and they've used their scholarships
14 to attend St. Charles Borromeo School in
15 Harlem.

16 We're all part of the "InvestinED"
17 Coalition, which has more than 100
18 organizations, from nonprofits like ours to
19 schools, religious entities, organized labor.
20 And any of us up here today would be able and
21 willing to answer any question you might
22 have.

23 I want to say that we all believe the
24 education scholarship tax credit would be a

1 win/win for education in New York. It would
2 use the tax code to generate millions of
3 dollars in new charitable donations to help
4 not only the children we're looking at and
5 the parents representing the children here,
6 but it would also help public school kids.

7 As an example, CSF, as a
8 scholarship-granting organization, we would
9 be able to do this statewide. Right now we
10 have a program that helps New York City and
11 we have a partner up in Buffalo that helps in
12 the eight western counties. But we would be
13 willing, able and ready to try to do this on
14 a statewide basis, so there would be no part
15 of the state that wouldn't be covered.

16 I want to add that our scholarship
17 families, they have the same desires for
18 their children as affluent families who can
19 move to a better neighborhood or afford
20 tuition. They know -- and I was just talking
21 to one of the moms I rode up with this
22 morning. She came here because she wanted to
23 do better for her kids. She knows that a
24 quality education is what's going to put them

1 on the path to future success. And they know
2 that there's no do-over for their child. You
3 can take this money and put it into something
4 else, but it's not going to help their kid.
5 Their child is in a failing situation now.
6 They need an option. And for many of these
7 kids, the only way is a scholarship.

8 There are thousands more kids like
9 this. I don't know if I'd be allowed to give
10 a minute of my time or like 30 seconds each
11 to one of the parents or -- no, I can't do
12 that? Okay.

13 There are many more kids like this
14 who -- and like I said, that they can
15 articulate better than I can why this is
16 important, what it means for them. We hear
17 things like: This was a game-changer, this
18 was the thing that started my life on a
19 different path. Once I got the scholarship
20 and got into a different school, I was
21 exposed to all kinds of different
22 opportunities, somebody believed in me.

23 It's a condemnation of any other way
24 of doing things, it's just recognizing that

1 these parents know what's best for their
2 children, and the only thing that's limiting
3 them from making that choice is that they
4 don't have the financial resources.

5 And this is a way -- it's a small
6 amount of money compared to the overall
7 amount of money that's spent in the New York
8 budget for education. It's \$150 million
9 compared to \$23 billion. And it's very
10 leveraged money. We're not about saving
11 schools, but I know there are about 450,000
12 kids in private schools. I know many of them
13 struggle. And I know that these scholarships
14 make the difference in being able to fill
15 empty seats in schools. The New York State
16 budget can't afford to not have the
17 non-government schools.

18 So for all these reasons, and so many
19 more -- and again, I want you just to look at
20 every one of these people back here and know
21 that this is -- I'm amazed by their
22 gratitude, because I think -- I'm just a
23 conduit for generous people that want to do
24 something good for somebody else. And I'm

1 blessed to do that. And I see these families
2 and I am reminded, like for them, it's a huge
3 thing -- a \$2500 or \$3000 scholarship, it may
4 as well be \$100,000, because that's how hard
5 it would be for them to access the kind of
6 money they need to go to a private school.

7 So thank you for the opportunity to be
8 here. And I'll turn it over to my friend and
9 supporter as well, Derrell Bradford.

10 MR. BRADFORD: Thank you. And
11 Chairman Farrell, I appreciate the promotion
12 to president from humble executive director.
13 Thank you very much, sir.

14 So I have very little to add to what
15 Darla said and what we'd hoped our parents
16 would have an opportunity to say to you. But
17 I do want to make three very important points
18 about the tax credit proposal or the
19 scholarship bill, as we like to talk about
20 it.

21 The first one is really a personal
22 one. So I grew up in the same neighborhood
23 that Freddie Gray grew up in in Southwest
24 Baltimore. And by the grace of God, I got

1 exactly the kind of educational opportunity
2 that we're talking about -- I got a
3 scholarship, I went to an amazing high
4 school, I went to two Ivy League schools
5 after that, and I get to sit here today and
6 talk about how the world should change so
7 that more low-income kids have the same kind
8 of opportunities I had. That is deeply
9 personal, and we should be aligning public
10 policy in a way that makes sure that who your
11 parents are, the zip code you live in or how
12 much money they make don't determine whether
13 or not you get a greater teacher or you get a
14 great opportunity or the chance to become the
15 person you were meant to be. And this is
16 really important.

17 I also want to say, just -- this bill
18 is a revenue raiser for all kinds of schools.
19 To what Darla said, I think it's really
20 important -- this is a suite of tax credits
21 that help public schools with innovation,
22 that help keep like innovative programs, art
23 and sports, in schools when those things
24 would normally be cut; that help teachers

1 recover some money when they spend out of
2 their own pockets, which is something that we
3 know they do sort of serially; and that, most
4 important, is the gift of a phenomenal
5 education to a kid who might not otherwise
6 get one.

7 So you should look at it as a
8 pro-education set of proposals that include
9 more options for families.

10 The second thing I would say, just
11 again to echo this, this is not about public
12 school versus private school. This is about
13 the right school versus the wrong one. There
14 are lots of great schools of all types in New
15 York City and in New York State, but it just
16 so happens that the amount of money you make
17 or the mortgage you can afford is very often
18 the determinant of whether or not you get
19 into the school that is the right fit for
20 you. And this bill is meant to address that
21 issue.

22 And the last one I think is the most
23 important thing, is that this bill is about
24 now. Look at the discussion about education

1 reform and policy in this state, and we have
2 10-or-12-year "maybe" promises about
3 second-graders who don't exist yet maybe
4 being able to read on grade level by 2020.
5 How does that help a parent who has a kid
6 who's in the lurch today, who only has one
7 chance at an education and one chance to
8 become the person they were meant to be?

9 The scholarship deals with these
10 things in a way that no other set of
11 education reforms actually does.

12 So I just -- again, I'm here as a
13 supporter of CSF and, more importantly, a
14 supporter of all these parents who gave their
15 time and effort to come up here today and
16 make the point to you that their kids could
17 not wait, have gotten an excellent
18 opportunity, and we should look at a way to
19 make that not lightning in a bottle, but
20 something that we support and implement
21 statewide.

22 Thank you.

23 CHAIRMAN FARRELL: Thank you.

24 Any questions?

1 CHAIRWOMAN YOUNG: Questions?

2 I just want to personally thank you
3 for coming today to give testimony. And I
4 especially want to thank the parents and the
5 students and the educators who are here
6 today.

7 And I'm very familiar with the BISON
8 program in Western New York and the good work
9 that it does. I've heard from students
10 directly about testimonials and how they've
11 been able to excel. So I want to thank the
12 students, whether college or younger. It's
13 great that you're here to learn about state
14 government, how it works. And this is a way
15 to show that when citizens get involved, it
16 makes a difference. So I just want to thank
17 you for being here today.

18 CHAIRMAN FARRELL: Thank you very
19 much.

20 CHAIRWOMAN YOUNG: I'm sorry, Senator
21 Savino has thought of a question.

22 SENATOR SAVINO: Thank you. I keep
23 losing my mic here today.

24 Thank you for your testimony, both of

1 you. I'm a supporter of the education
2 investment tax credit; we've passed it in the
3 Senate several times now, and I've been very
4 vocal about, you know, the fact that I was a
5 Catholic schoolgirl my entire life --

6 MR. BRADFORD: Thanks for your
7 support.

8 SENATOR SAVINO: Yes. And
9 unfortunately, Catholic schools are
10 disappearing, as many private schools are
11 disappearing, because of the cost of tuition.
12 Unfortunately, nuns -- we don't have nuns any
13 more, and lay teachers like to get paid, so
14 it's had a drain.

15 In my community alone, in Staten
16 Island, we've seen the closure of six
17 Catholic schools in the past three years.
18 And if you think that doesn't have a
19 corresponding effect on public schools, it
20 does. In a two-block area where two schools
21 closed, all of those students then enrolled
22 in the nearest public school, PS 13. And the
23 other day I addressed Chancellor Fariña about
24 that school; it's at 167 percent capacity

1 right now.

2 So we have to do something. We're not
3 building new schools fast enough, so we need
4 to stabilize our parochial schools. But some
5 of the criticism of this comes from people
6 who think that this is a tremendous giveaway
7 to hedge-fund billionaires, somehow or
8 other -- I don't know. How do you address
9 that concern when it does come up?

10 MR. BRADFORD: Vociferously.

11 I'd also, yeah, I'd like to introduce
12 you all to hedge-fund billionaires who came
13 up here with me today that would be potential
14 beneficiaries of this tax credit.

15 It is important to actually read the
16 language. Though you can get a tax credit
17 for giving up to a million dollars, the tax
18 credit is not for millionaires. Anyone can
19 get it. And at least half of the scholarship
20 dollars have to be given to low-income
21 families, so \$66,000 or less for a family of
22 four. So how that is a giveaway to
23 billionaires I'm not really sure. I think a
24 simple reading of the legislation kind of

1 deals with that. But it's probably easier to
2 demonize opportunity for families because you
3 don't like a policy than to tell the truth
4 about what the legislation says.

5 SENATOR SAVINO: Thank you for that.

6 I also know that in the bill it does
7 allow for a significant amount of the money
8 that could come from this education
9 investment tax credit to go to local public
10 schools --

11 MR. BRADFORD: Indeed.

12 SENATOR SAVINO: -- many of whom are
13 not able to raise enough money to provide
14 additional programming in those schools.

15 Would you say that that's a fair
16 assessment of the bill?

17 MR. BRADFORD: Yes, so I'm -- so I
18 think on the one hand this gets districts in
19 the game that normally would not be in the
20 game. You know, the fund for New York City
21 public schools that -- it's like easy money,
22 because everybody's there. But you have like
23 lots of districts in the middle of the state
24 that suddenly are capable of raising money

1 for this, and so that's a good thing.

2 And I think if you look at what we've
3 seen in other states -- Pennsylvania has a
4 similar program -- not only have we seen
5 public school districts raise significant new
6 funds for innovative programs, but we've seen
7 some great partnerships with community
8 groups. So in Philadelphia the museum of
9 African-American Heritage does a cultural
10 partnership with the district. In
11 Pittsburgh, I believe it is, the Urban League
12 has a college readiness program for high
13 schoolers that is also funded by the
14 education investment tax credit there.

15 So this has been a good thing for
16 public schools. This is more money for
17 public schools. Like a lot of people would
18 say we want more money for public schools.
19 This is more money for public schools in
20 addition to the other things we've discussed.

21 SENATOR SAVINO: Thank you.

22 And I think in the Governor's
23 budget -- his proposal is somewhat different
24 than the bill we've passed in the Senate,

1 which is also somewhat different than the
2 bill that the Assembly has but hasn't passed
3 yet. But I think in the Governor's budget
4 he's talking about carving charter schools
5 out of his proposal. Is that correct?

6 MR. BRADFORD: So they're all over the
7 place. My understanding is that the
8 definition of public school does not include
9 charter school in all versions but the Senate
10 version, but I'd have to get back to you on
11 that.

12 SENATOR SAVINO: Thank you.

13 CHAIRWOMAN YOUNG: Thank you.

14 Senator Krueger has some questions.

15 SENATOR KRUEGER: Thank you.

16 So following up on Senator Savino's
17 analysis or questions, so because one of the
18 concerns, regardless of whether or not hedge
19 fund people are sitting here or not -- they
20 wouldn't tend to come to a hearing -- would
21 you continue to support your proposal if it
22 had a much more realistic cap on how much of
23 a tax deduction any individual can take, as
24 opposed to this enormous up-to-a-million-

1 dollar reduction in their taxes?

2 Most states that have looked at this
3 model have a far, far lower rate of what a
4 deduction can be for any given individual.

5 MR. BRADFORD: So education policy,
6 not tax policy, is my expertise. But I would
7 offer this one thing on this.

8 Pennsylvania gives a 90 percent credit
9 for what you give over two years, but it's on
10 a lower amount. And every amount is capped.
11 So it's -- there's not an unlimited -- so no
12 donor can reduce a tax liability below zero,
13 that's the first thing.

14 There's a cap on the total amount of
15 credits you're going to give out in any given
16 year. So regardless of what the rate is, you
17 always know what your exposure is going to
18 be.

19 And the last thing I would say is that
20 yes, you already give a charitable deduction
21 for some donations to education. But
22 education is the most important thing, and we
23 believe you should incentivize those kinds of
24 deductions at a higher level. Whether or not

1 that's 75 percent or 90 percent is really
2 going to be up to this body. I think what
3 we'd like to see is anything above what it is
4 now, applied the way the Legislature would
5 like for you to apply it.

6 MS. ROMFO: And I would just like to
7 add to that, it's not as if they're going to
8 get to keep their money otherwise. They're
9 either paying it in taxes or they're getting
10 credit against it. So it's not like it --
11 maybe I'm being simplistic, but they're out
12 the money either way. So the fact that it is
13 an incentive to do something good for kids
14 that are going to -- I mean, I'm passionate
15 about the kids. I'm not passionate about the
16 hedge-fund investors at all. That's not my
17 interest.

18 And I know what this money can do in a
19 child's life now, today. And I see mothers
20 all the time -- I see mothers crying, I see
21 people really upset that they can't get their
22 kid into a situation where they're not being
23 bullied, they're not safe, they're not
24 learning. So it's just -- to me, it just

1 rings hollow.

2 SENATOR KRUEGER: Well, technically,
3 the difference is now they pay taxes and the
4 elected officials of the State of New York
5 determine where tax revenue should go. Here,
6 they would decide where their money goes, not
7 pay taxes, and get boasting rights as if
8 they're being philanthropic when of course,
9 as you just pointed out, there's no
10 philanthropy at all, it's --

11 MS. ROMFO: I don't care if they get
12 boasting rights, I guess.

13 SENATOR KRUEGER: But no, my point is
14 it's not philanthropy, it's simply a
15 substitution of deciding where their tax
16 money goes, whether they as individuals
17 decide where it goes or where the government
18 decides it goes.

19 And your point, sir, about yes, it
20 would be capped -- although of course each
21 and every year the state might decide to
22 change that formula. But it is, under the
23 Senate proposed bill, which I always vote
24 against, changes the charitable contribution

1 impact for the donor from 5.7 percent up to
2 90 percent and for, under the Governor's
3 proposal, 75 percent.

4 So, one, we don't have that same money
5 perhaps put into education anyway, because
6 now the donor decides where it goes, as
7 opposed to the State Education Department.

8 But, two -- I respect your analysis,
9 Well, what's important than education. What
10 would your answer be for this question: Next
11 year the cancer research world comes up and
12 says, What's more important than curing
13 cancer? How can you give this group a 90
14 percent education tax credit when we're at
15 5.7 percent in our charitable giving? Isn't
16 curing cancer just as important? Don't you
17 think we should have the tax deduction
18 formula be the same for curing cancer as
19 education?

20 What would you answer?

21 MR. BRADFORD: Oh, I would say two
22 things. The first thing is that I would
23 applaud them for the guts to come here and
24 tell you that.

1 And the second thing I would say is
2 cancer and education are the same thing.
3 They are both life-and-death. And so the
4 impetus for asking for you to put this
5 program into existence is for the same thing.
6 A child who does not get a great education
7 dies a little bit every day, never having
8 become the person that they were meant to be.
9 And that is what we work on.

10 If the cancer lobby wants to come up
11 here next year and ask you the same thing --
12 maybe they should. I'm sure they'll marshal
13 their arguments in the same way. But, you
14 know, for you, Senator, and all the other
15 members of this august body, every year you
16 get the opportunity to decide whether or not
17 you think these things are more or less
18 worthy of what percentage of tax credit. We
19 leave that to you.

20 SENATOR KRUEGER: So again, for the
21 record, your position would be if a
22 90 percent charitable contribution for this
23 program is justified, anyone else who comes
24 up here and says we should change the formula

1 from 5.7 percent deductibility to 90 percent
2 deductibility, that's okay also?

3 MR. BRADFORD: Senator, I think it's
4 up to you to figure out whether or not it is
5 justified. We've made our proposal, as a
6 large coalition of people who think that this
7 rate of tax credit on a capped amount of
8 money is a good use of the state's tax
9 crediting authority, with a substantial
10 benefit in terms of real people and kids'
11 education.

12 If you don't think 90 percent is
13 enough, I think it is up to you to decide
14 whether or not it should be more or less.

15 SENATOR KRUEGER: So thank you.

16 Again, for me, it's money that isn't
17 collected and goes to certain people in
18 education or money that is collected that
19 goes to the public education system through
20 our budgets. It's not an either-or for
21 education, it's a who gets to decide how it's
22 spent for education.

23 So thank you very much.

24 MR. BRADFORD: Not at all.

1 MS. ROMFO: And thank you all for your
2 service to the State of New York. Listening
3 here, it's a lot of work that you do every
4 day. So thank you.

5 CHAIRWOMAN YOUNG: Thank you very
6 much.

7 CHAIRMAN FARRELL: Thank you.

8 Michael Kink, executive director,
9 Strong Economy for All Coalition.

10 MR. KINK: Thank you, Chairman
11 Farrell, Chairman Young, members of the
12 committee.

13 I also prepared written testimony,
14 which I'm not going to read. I'm going to
15 try to hit a couple of high points and
16 address some of the issues that have been
17 discussed today and some of the issues that
18 should be discussed by the Legislature in a
19 discussion regarding the tax and fiscal
20 policies for this year's budget.

21 First of all, on personal income taxes
22 for millionaires and high-net-worth
23 individuals, the Strong Economy for All
24 Coalition worked in concert with the Fiscal

1 Policy Institute on their "Tax the One
2 Percent" proposal. We've also worked with
3 and support Chairman Farrell and the Assembly
4 majority's proposal for a millionaire's tax,
5 which was released today.

6 I would suggest, for the Legislature's
7 contemplation, that there is room even above
8 the Assembly tax brackets at \$1 million,
9 \$5 million, and \$10 million, for a bracket at
10 perhaps \$100 million a year. If our brackets
11 for our personal income tax today are going
12 to accurately reflect the incomes that are
13 out there in the real world, we need some
14 higher brackets.

15 I included a link in my testimony to
16 the Knight Frank Wealth Report, which
17 outlines the prediction for ultra-high-net-
18 worth individuals, people with \$30 million a
19 year, \$30 million or more in investable
20 assets. There are about 175,000 of those
21 people in the world, and their prediction is
22 that in the year 2025, New York will be the
23 number-one destination for those people to
24 live and do work, based entirely on the

1 economic prospects, the cultural prospects,
2 the solid investment opportunities for
3 property in New York City. Right now we're
4 number two behind London. The report itself
5 shows that those individuals do not
6 necessarily make their residency decisions
7 based on the marginal tax rates of cities,
8 states, municipalities in which they reside.

9 I've also included a link to research
10 from Stanford University which looked closely
11 at this myth of the moving millionaire, and
12 demonstrates that there has not been a
13 dancing across the state lines response to
14 marginal increases in state tax rates over
15 the last decade, that the modest changes
16 we've made in New York, that the modest
17 changes that other states have made, that
18 proposals like the ones included in the
19 Assembly majority's plan released today will
20 not affect the residence of millionaires and
21 billionaires.

22 The second point I'd raise is for the
23 prospects of multistate action to close the
24 carried-interest loophole.

1 The carried-interest loophole is the
2 loophole that has been attacked by Hillary
3 Clinton and Bernie Sanders and Donald Trump
4 and Jeb Bush. There's a bipartisan
5 opposition to this loophole at the federal
6 level. It lets hedge-fund managers pay lower
7 tax rates than teachers and truck drivers.
8 And if we closed it at the state level,
9 across a range of states -- Massachusetts,
10 Connecticut, New York, New Jersey,
11 Pennsylvania, Illinois and California, the
12 states that have the vast majority of
13 carried-interest profits -- we could raise
14 billions for our state: \$3.7 billion in
15 New York is a conservative estimate.

16 Finally, to address directly the
17 points Senator Savino raised today, I did not
18 include it in my testimony, but I do have a
19 report that we issued last year that goes
20 billionaire by billionaire looking at the
21 existing donations to private schools, the
22 benefits that they'd get. Elizabeth Lynam,
23 from the Citizens Budget Commission, says
24 that the private school voucher tax credit is

1 an extremely lucrative benefit that would
2 benefit the wealthiest taxpayers in the
3 state. We agree with that.

4 I'd also like to raise a brief point
5 of concern regarding proposals to cap the
6 property tax in New York City. I feel like
7 that may be a similar situation where the
8 intent is to benefit regular and
9 working-class people in New York, but the
10 actual effect will be to benefit billionaire
11 real estate developers.

12 The hardest fight in the housing
13 market in New York City right now is between
14 land for luxury condo development and land
15 for affordable housing development. And
16 recent reporting has demonstrated that a
17 property tax cap in New York City will help
18 increase the attractiveness and decrease the
19 costs of luxury housing development. So
20 something that won't provide a significant
21 benefit to working-class taxpayers but may
22 provide a significant benefit to billionaire
23 real estate developers is the wrong direction
24 for property tax policy in New York.

1 Similar to the private school voucher
2 tax credit, it purports to benefit regular
3 people but it looks like it's going to
4 benefit the super-wealthy.

5 And steps like the Assembly majority
6 plan, other proposals that have been raised
7 in the Legislature to close loopholes and
8 promote fair-share fiscal policy is the right
9 direction for our state.

10 Thank you.

11 CHAIRMAN FARRELL: Thank you.

12 Questions?

13 SENATOR KRUEGER: Thank you, Michael.

14 MR. KINK: Thank you.

15 CHAIRMAN FARRELL: Thank you.

16 John Whiteley, legislative affairs
17 officer, New York State Property Tax Reform
18 Coalition.

19 MR. WHITELEY: Good morning, Chairman
20 Farrell, and co-chairman, acting chairman
21 Senator Krueger. Thank you very much for
22 this opportunity.

23 Just for the record, I'm John
24 Whiteley, legislative affairs officer of the

1 New York State Property Tax Reform Coalition.
2 We're a volunteer advocacy group that
3 represents the interest of residents
4 throughout the state who seek property tax
5 relief and reform via state legislation. We
6 first organized statewide in 2007. I have
7 personally been involved in property tax
8 issues since the early 1990s, as have many of
9 my colleagues, at local and regional levels.

10 Our long-term objective has been and
11 remains the gradual reduction in the
12 continuing overdependence on the archaic and
13 inequitable property tax as a means of
14 funding services in our state, and to replace
15 it with a gradual but significant increase in
16 state funding, especially for schools, more
17 in keeping with the state's constitutional
18 obligations and our 21st-century economic
19 realities.

20 The property tax hits hardest at the
21 middle class, contributing to its decline
22 amid a level of income inequality not seen
23 since the eve of the Great Depression. It's
24 the killer tax in our state, as Governor

1 Cuomo has pointed out.

2 While middle-class property tax relief
3 remains important, as I'll touch on below, a
4 tax system which does not fully consider the
5 ability to pay and can so often put
6 residents' homes at risk is inherently
7 inequitable in and of itself. The 700,000
8 moderate-income New York households paying
9 over 10 percent of their incomes in property
10 tax, with some 250,000 paying over
11 20 percent, are testimony to its flaws. When
12 a tax is so burdensome to so many, we should
13 reduce its use.

14 Conceptually, the state needs to do
15 for schools what it has done for counties
16 through the local Medicaid freeze, by
17 eliminating or paying for state mandates that
18 often drive local increases beyond what can
19 reasonably be accommodated under the property
20 tax cap. Failure to do this will inevitably
21 strengthen efforts to weaken the cap,
22 possibly lead to more overrides that will
23 increase pressure on struggling taxpayers, or
24 force unconscionable reductions in program

1 quality at the expense of students.

2 We support the educators' call for a
3 significant increase in the state's share.
4 Education cannot be flat-lined, but property
5 taxpayers are basically tapped out. The cost
6 of annual increases should gradually become a
7 state funding responsibility.

8 Fully implementing this concept will
9 obviously take a while, but that doesn't
10 excuse us from beginning now the serious
11 discussions needed and seeking consensus on a
12 blueprint for the future.

13 Finally, just to touch on some brief
14 history. It's been eight years since an
15 increasing property tax revolt led Governor
16 Spitzer to launch his, and later Governor
17 Paterson's, Property Tax Relief Commission,
18 designed with much fanfare to seriously study
19 the whole property tax problem and make
20 recommendations. Many remember its primary
21 recommendation of the cap, but fewer may
22 recall it urged implementation of two other
23 important relief measures -- a circuit
24 breaker and mandate relief -- once a cap was

1 enacted.

2 It's now been nearly five years since
3 the cap was enacted. There has been some
4 modest but still insufficient movement on
5 mandate relief, but basically no progress on
6 a meaningful circuit breaker. The fiscal
7 crisis provided a convenient excuse for a
8 while, but the Legislature's failure to enact
9 the excellent circuit breaker proposed and
10 highlighted by Governor Cuomo himself in the
11 2015-2016 Executive Budget, while effectively
12 adding instead to the already substantial
13 STAR program, made it clear that its
14 rejection was all about politics, not money.

15 Like other relief measures, the
16 circuit breaker does not provide the
17 fundamental, systemic tax reform discussed
18 above. But as the only measure that
19 meaningfully considers both one's income and
20 tax bill, it would help save the homes of the
21 700,000 New Yorkers noted above and countless
22 other moderate-income residents at risk of
23 losing them, while they wait out the
24 time-consuming process of long-term reform.

1 So the circuit breaker remains
2 extremely important and should be enacted as
3 soon as possible. We understand there may be
4 a better chance for progress beginning in
5 2017-2018; we will be watching developments
6 closely. It's been too long already. We
7 have submitted voluminous testimony in past
8 years concerning the merits and the important
9 features of a circuit breaker, and we will be
10 happy to respond to any questions or requests
11 for more details.

12 And thank you again for this
13 opportunity.

14 CHAIRMAN FARRELL: Thank you very
15 much.

16 Assemblyman Oaks.

17 ASSEMBLYMAN OAKS: I'm just going to
18 do a quick introduction, I'm sorry, of
19 Mr. Walter. Assemblyman Walter has joined
20 us. Thank you.

21 CHAIRMAN FARRELL: Oh, yes. Yes.

22 ASSEMBLYWOMAN GALEF: Denny, just a
23 quick question.

24 We've had these tax freeze checks

1 going out, Mr. Whiteley. Next year -- this
2 year, I believe, maybe in my part of the
3 state, I'm getting a \$120 check. You might
4 be getting a little bit more because you're
5 upstate. Do you consider that the circuit
6 breaker? Is that -- I mean, we adopted that,
7 saying that this is the first year of the
8 circuit breaker.

9 MR. WHITELEY: This is not a circuit
10 breaker. No, we don't consider this a
11 circuit breaker. The circuit breaker is a
12 very specific concept in which you relate
13 one's income to one's tax bill to determine
14 what you might call the individual tax
15 burden. And that's the basis for
16 distributing the benefit. Not everyone will
17 qualify; you set certain limits.

18 The various other programs, certainly
19 the STAR program, the so-called rebate check
20 program, which is basically more STAR -- it's
21 the same formula, just a different
22 mechanism -- they don't do this. Some
23 provide some broad parameters or an upper
24 limit or income or some broad ranges within

1 that, but which can affect the benefits. But
2 it's not at all the same thing. Within those
3 broad income ranges, everybody gets the same
4 benefit regardless of the tax bill.

5 So the circuit breaker is unique. And
6 it's used in something like 35 states. It's
7 not some new thing. We actually have it in
8 New York, as you know, but the levels are so
9 low that it's just -- it's not meaningful.

10 We've been trying since I think 2005,
11 your first bill, and continuing. And I think
12 you're still introducing your bill. It got
13 wide mention by the Suozzi Commission, that
14 commission in 2008. It was the bill of
15 choice at that time. And we're very -- one
16 of our deep regrets is that we never got that
17 passed. We came close. But we've got to
18 resurrect, we've got to get it back. We
19 can't let that go, because too many people
20 depend on it. And it's the only thing that
21 will really help them.

22 CHAIRMAN FARRELL: Thank you.

23 Further questions? Senator.

24 SENATOR KRUEGER: Thank you.

1 Just one question, we've talked about
2 these issues so often.

3 In yesterday's Housing hearing, one of
4 the groups, and I don't remember which,
5 testified that the foreclosure rate in the
6 Hudson Valley counties was the highest in the
7 state, and New York State was basically the
8 highest in the country.

9 Do you think there's a correlation
10 between the property tax rates in the Hudson
11 Valley counties and our shockingly high
12 foreclosure rates?

13 MR. WHITELEY: And our -- what was the
14 last part, I'm sorry?

15 SENATOR KRUEGER: We have shockingly
16 high foreclosure rates in the Hudson Valley
17 counties. And I wonder whether you think
18 that correlates to the high property taxes.

19 MR. WHITELEY: Well, I think it
20 undoubtedly does, because -- I mean, the
21 Hudson Valley is one of the -- is the most
22 burdened areas of the state in terms of the
23 income people have and the taxes on their
24 homes. And so yes, they have high

1 foreclosure rates.

2 There are many -- almost every area of
3 the state, sometimes for different reasons,
4 has huge burdens. The system can never be
5 made equitable. I mean, in my view, the only
6 two things you can do, you can reduce the use
7 of it because it's -- or you can try to round
8 out some of the rough edges so at least it's
9 tolerable. That's the circuit breaker.

10 Funding reform is the long-term thing.
11 You've got to find other alternatives to fund
12 services.

13 SENATOR KRUEGER: Thank you.

14 MR. WHITELEY: Thank you.

15 CHAIRMAN FARRELL: Thank you very
16 much.

17 Next, Marian Bott, education finance
18 specialist, New York State League of Women
19 Voters, to close.

20 MS. BOTT: Hooray, we all get to have
21 lunch. Who's here?

22 I'll have to rephrase my testimony; I
23 was going to say good morning.

24 So do you have copies? I just want to

1 highlight a few quick things so that we can
2 all go.

3 On page 2, because there was ample
4 discussion of the STAR program this morning,
5 the five-year financial plan of the Executive
6 Budget reduces STAR benefits from 3.3 billion
7 down to 2.6 -- 2.7 at the end of five years.
8 So there's a plan in place to gradually
9 reduce these benefits.

10 We never have favored STAR; we wanted
11 a property tax circuit breaker. We felt that
12 the benefits would perhaps disproportionately
13 go to wealthier districts. Nothing wrong
14 with tax relief, but we believe that the
15 property tax circuit breaker is the more
16 appropriate tying of the burden to the
17 income.

18 If you go to page 3, as to the STAR
19 program, the Executive Budget five-year plan
20 says that it will save, on the city tax
21 credit alone, \$87 million -- that's just a
22 timing difference -- whereas the homeowner
23 outside of New York City credit will save
24 \$98 million. That is also a timing

1 difference.

2 But here's my more important question
3 and sentence. We would have liked to have
4 had a better explanation of the distinction
5 between (A) instances where inappropriate
6 claims have been made; (B) estimates of
7 savings from taxpayers who elect not to apply
8 for a state income tax credit -- and I'll
9 come back to that in a minute; and (C) the
10 impact of the cap in reducing the cost of the
11 existing program.

12 I did get data from DOB to the effect
13 that the \$240 million of savings in the
14 fiscal year '17 budget comprises \$185 million
15 of tax savings, and the rest of it is from
16 the reduction of the -- having no longer a
17 2 percent increase but a flat tax.

18 I would hope that you would look at
19 what the Governor really plans here and ask
20 detailed questions as to the relative impact
21 on homeowners, new homeowners, and renters in
22 New York City. In New York City, many of
23 people who are just getting the \$125, or the
24 62.50 if they're a single taxpayer, perhaps

1 those people won't choose to itemize, maybe
2 they won't ask for the state income tax
3 credit.

4 So the question to you is, will the
5 state basically end up benefiting from people
6 in New York City disproportionately? Just
7 ask the question. If you're a New York City
8 representative in particular, find out
9 whether basically overall, since the initial
10 impact is \$87 million, the percentage of
11 impact on New York City is higher than the
12 percentage impact outside New York City.

13 The homeowner -- the new homeowner
14 business, we're not quite so sure that
15 there's any reason to single out new
16 homeowners. We're much more convinced that
17 it makes more sense to lower the \$500,000.

18 I have some data which you can review.
19 You know this by heart, I'm sure. But on the
20 bottom of page 3, I cite what the Institute
21 for Tax and Economic Policy tax bracket and
22 income levels are. So you are basically
23 pretty much at the top of New York State if
24 you're making \$500,000.

1 We think it would be much more
2 appropriate for you to ask for an analysis of
3 what would happen to property tax relief if
4 you pulled the income requirement down to the
5 \$217,000 level, which represents the top of
6 the lower 95 percent of income earners.

7 So in effect, we know that it's
8 politically tough, especially in an election
9 year, to ask anybody to deny anybody their
10 tax relief. But you know that the recession
11 will come and eventually you'll have to look
12 for ways of pulling in state savings. And we
13 would strongly recommend that you continue to
14 look at consolidation of these tax relief
15 programs, as other people this morning have
16 said.

17 I have 23 seconds. So on page 5 and
18 6, I have four points objecting to the
19 Governor's Executive Budget proposal on the
20 education tax credit.

21 Number one, private schools receive
22 generous tax treatment, \$250 million of
23 prior-year claims last year. There are still
24 plenty of prior-year claims owed to

1 New York's public schools throughout the
2 state. They did quite well last year, the
3 private schools.

4 Number two, no other state has a
5 program allowing one individual taxpayer to
6 direct \$1 million of state funds.

7 Number three, the EITC -- first come,
8 first served -- will be an administrative
9 nightmare with poor transparency.

10 Several people asked earlier about how
11 will the Legislature know what's going on
12 within the Taxation and Finance Department.
13 We realize that the details of this bill
14 allow the donors to take their certificates,
15 but you will not know, until 18 months later,
16 the way the bill is drawn, who the
17 beneficiaries were.

18 And number four, private schools
19 really just want to survive. So if you look
20 at the trajectory of this program, you know
21 that until there is parity between the
22 expenditures for teachers and facilities in
23 the private schools and the public schools,
24 people will come back to you as legislators

1 for continued funding for this program.

2 Thank you very much for your time.

3 SENATOR KRUEGER: Any questions from
4 the Assembly?

5 CHAIRMAN FARRELL: Any questions?

6 Senator.

7 SENATOR KRUEGER: Thank you, Marian.
8 Always appreciate your testimony on behalf of
9 the League.

10 MS. BOTT: We love bringing up the
11 rear.

12 SENATOR KRUEGER: And it's good when
13 you get to go last, because you get the last
14 word.

15 So I just want to make sure I'm
16 understanding the Governor's bill correctly.
17 So it's up to a million dollars of tax
18 deductibility, but then --

19 MS. BOTT: Credit.

20 SENATOR KRUEGER: Credit, thank you.
21 Tax credit.

22 But then you can receive one of these
23 vouchers if your family income is up to
24 \$500,000?

1 MS. BOTT: As you know, there's the
2 four-part program, \$10 million for the
3 teachers and for private and public schools.
4 And then there's the \$50 million piece for
5 direct scholarship donors, which is what we
6 spent most of the time talking about here. A
7 \$20 million piece that could in theory go to
8 either a charter school or a public school.
9 And then there's the other \$50 million.

10 SENATOR KRUEGER: Right. I think it's
11 \$70 million.

12 MS. BOTT: The irony is that the
13 income limitation of \$60,000 applies to the
14 families that can get up to -- is it \$3,000?
15 Something like that. No, it's \$500, and the
16 family income is limited to \$60,000.

17 Whereas for the donor program, the
18 \$50 million donor program, those families'
19 income, under the Senate proposal, could be
20 \$500,000. Under the Governor's proposal,
21 income could be up to \$250,000. Or \$300,000
22 if they have five more kids.

23 So it's still -- it's still -- it's
24 lopsided the way it's designed.

1 SENATOR KRUEGER: Okay, so on page 6
2 of your testimony, paragraph No. 3, you
3 actually say "Verifying the (too high if at
4 \$500,000+) family income limit for the
5 'voucher' program" --

6 MS. BOTT: That's a reference to the
7 Senate program.

8 SENATOR KRUEGER: That's not the
9 Governor's program bill.

10 MS. BOTT: Yup.

11 SENATOR KRUEGER: Thank you. That's
12 what I was getting confused about. Because
13 yes, there are multiple bills floating
14 around.

15 MS. BOTT: And still will be, I guess.

16 Has the Assembly come out with its
17 bill yet?

18 SENATOR KRUEGER: I don't know. I
19 can't speak for the Assembly.

20 MS. BOTT: Is there anyone here who
21 knows?

22 SENATOR KRUEGER: We don't know that
23 they do. To be continued.

24 MS. BOTT: They're busy. They're

1 busy. Has the Assembly come out with its
2 version of this bill, of the ETC bill yet?

3 (No response.)

4 SENATOR KRUEGER: We'll have to do
5 homework for you.

6 MS. BOTT: Okay. We've been waiting
7 for it.

8 SENATOR KRUEGER: All right. Thank
9 you very much for your testimony.

10 MS. BOTT: Thank you all.

11 SENATOR KRUEGER: That's it, Denny.

12 CHAIRMAN FARRELL: Thank you very
13 much.

14 That's it. We are adjourned for this
15 one. And we will be back at 1:30.

16 (Whereupon, the budget hearing
17 concluded at 1:05 p.m.)

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