

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  
2017-2018 EXECUTIVE BUDGET ON  
5 ECONOMIC DEVELOPMENT

6 -----

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

9 February 1, 2017  
10 9:37 p.m.

11 PRESIDING:

12 Senator Catharine M. Young  
Chair, Senate Finance Committee

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

15 PRESENT:

16 Senator Liz Krueger  
Senate Finance Committee (RM)

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

19 Senator Phil Boyle  
Chair, Senate Committee on Commerce,  
20 Economic Development and Small Business

21 Assemblyman Robin Schimminger  
Chair, Assembly Committee on Economic  
22 Development, Job Creation, Commerce  
and Industry

23  
24 Senator Diane Savino  
Vice Chair, Senate Finance Committee

1 2017-2018 Executive Budget  
Economic Development  
2 2-1-17

3 PRESENT: (Continued)

4 Assemblyman Daniel O'Donnell  
Chair, Assembly Committee on Tourism,  
5 Parks, Arts and Sports Development

6 Senator Rich Funke  
Chair, Senate Committee on Cultural  
7 Affairs, Tourism, Parks and Recreation

8 Assemblyman Fred W. Thiele  
Chair, Assembly Committee on Small Business

9  
10 Senator John DeFrancisco

11 Assemblyman Michael Cusick

12 Senator Roxanne Persaud

13 Assemblyman Harry B. Bronson

14 Senator Elaine Phillips

15 Assemblywoman Addie Jenne

16 Senator Timothy Kennedy

17 Assemblyman J. Gary Pretlow

18 Assemblyman Raymond W. Walter

19 Assemblyman Billy Jones

20 Assemblywoman Carrie Woerner

21 Senator Thomas D. Croci

22 Assemblywoman Rodneyse Bichotte

23 Assemblyman L. Dean Murray

24 Assemblyman Steven F. McLaughlin

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3 PRESENT: (Continued)

4 Senator Terrence P. Murphy

5 Assemblyman David Weprin

6 Assemblywoman Deborah Glick

7 Senator James Sanders, Jr.

8 Assemblyman N. Nick Perry

9 Senator Leroy Comrie

10 Assemblywoman Alicia Hyndman

11 Assemblyman Clifford W. Crouch

12

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1                   CHAIRWOMAN YOUNG: Good morning, and  
2                   welcome to the hearing on Economic  
3                   Development.

4                   I'm Senator Catharine Young, chair of  
5                   the Senate Finance Committee. I'm joined by  
6                   my colleague Assemblyman Denny Farrell, who  
7                   is chair of the Ways and Means Committee.

8                   We also are joined by several of our  
9                   members. We have Diane Savino, Liz Krueger,  
10                  Phil Boyle, Rich Funke, Terrence Murphy,  
11                  Roxanne Persaud, John DeFrancisco, and Elaine  
12                  Phillips.

13                  CHAIRMAN FARRELL: I have been joined  
14                  by Assemblyman Cusick, Assemblyman Bronson,  
15                  Assemblywoman Hooper, Assemblyman O'Donnell,  
16                  Assemblyman Jones, and Assemblyman Thiele.

17                  And Mr. Oaks too.

18                  ASSEMBLYMAN OAKS: Yes, we've also  
19                  been joined by Assemblyman Walter.

20                  CHAIRWOMAN YOUNG: Thank you.

21                  Pursuant to the State Constitution and  
22                  the Legislative Law, the fiscal committees of  
23                  the State Legislature are authorized to hold  
24                  hearings on the Executive Budget proposal.

1 Today's hearing will be limited to a  
2 discussion of the Governor's proposed budget  
3 for economic development.

4 Following each presentation, there  
5 will be some time allowed for questions from  
6 the chairs of the fiscal committees and other  
7 legislators.

8 First of all, I'd like to welcome  
9 Mr. Howard Zemsky, chairman and CEO of the  
10 Empire State Development Corporation, and the  
11 rest of the speakers who are joining us here  
12 today. Testimony will be followed by a  
13 question and answer period by members of the  
14 Legislature.

15 So, Mr. Zemsky, we're looking forward  
16 to your testimony.

17 COMMISSIONER ZEMSKY: Great. Thank  
18 you.

19 CHAIRMAN FARRELL: Good morning.

20 COMMISSIONER ZEMSKY: Chairwoman  
21 Young, Chairman Farrell, and distinguished  
22 members of the Senate and Assembly, good  
23 morning. I'm honored to have the opportunity  
24 to appear before you today to discuss

1 Governor Cuomo's 2017-2018 Executive Budget  
2 and its proposals for Empire State  
3 Development. This year's budget focuses on  
4 strategies and investments that will create  
5 new jobs while continuing to strengthen and  
6 diversify New York's state and regional  
7 economies.

8 By building upon the Governor's  
9 inclusive, regionally focused approach to  
10 economic development and leveraging state  
11 funding and community assets with private  
12 investments, we will continue to create  
13 economic opportunities for all New Yorkers.

14 With support from the Legislature,  
15 New York State has achieved the lowest  
16 middle-class tax rate since 1947, the lowest  
17 corporate tax rate since 1968, and the lowest  
18 tax rate for manufacturers since 1917.  
19 Additionally, unemployment is down in all  
20 regions of the state -- falling from  
21 8.9 percent in 2010 to 4.9 percent today --  
22 while job creation is up. There are  
23 7.96 million private-sector jobs in New York  
24 State, an all-time high, with 869,600 added



1           since 2011, a number that continues to grow.

2                       This year Governor Cuomo has proposed  
3           \$750 million for another round of the  
4           Regional Economic Development Council  
5           initiative. Since being established in 2011,  
6           the Regional Council's bottom-up process,  
7           which includes collaboration with  
8           legislators, has guided the state to invest  
9           approximately \$4.6 billion into more than  
10          5200 infrastructure, community development,  
11          and job creation projects statewide,  
12          leveraging more than \$20 billion in private  
13          and other investments. This has resulted in  
14          commitments to create and retain more than  
15          210,000 jobs throughout the state.

16                      The Governor recently announced nearly  
17          \$40 million in awards through Round 4 of the  
18          RESTORE NY program, which provides funding to  
19          municipalities for revitalization efforts.  
20          This funding, obtained with your support and  
21          approval, will help to reinvigorate downtowns  
22          and generate economic activity through  
23          rehabilitation of vacant and surplus  
24          properties.

1                   Thanks to the Buffalo Billion and  
2                   investments based on the region's strategic  
3                   planning, Western New York is a region that  
4                   has experienced a true economic  
5                   revitalization. Instead of leaving Buffalo,  
6                   young professionals are putting down roots in  
7                   the Queen City at rates we haven't seen for  
8                   many decades.

9                   In order to capitalize on and sustain  
10                  the economic progress stemming from the  
11                  Buffalo Billion's success, Governor Cuomo has  
12                  introduced Buffalo Billion Phase 2, a  
13                  proposed \$500 million investment focusing on  
14                  improving workforce development while  
15                  expanding investments in downtown  
16                  revitalization, life sciences, advanced  
17                  manufacturing, and promoting continued growth  
18                  of the innovation economy.

19                 Access to high-speed internet is  
20                 critical to running a business in 2017, and  
21                 the New NY broadband program intends to  
22                 connect every New Yorker to high-speed  
23                 broadband by the end of 2018. In 2015, the  
24                 Governor and Legislature made a \$500 million

1           commitment to broadband deployment, which is  
2           the largest and most ambitious state  
3           investment in the nation. To date,  
4           \$54 million has been awarded to 25 projects  
5           through Phase 1 of the program, and  
6           significantly more committed through Phase 2,  
7           which is expected soon.

8                     The tourism industry has been booming  
9           in recent years, and the Governor has  
10          proposed a commitment of more than  
11          \$55 million for tourism initiatives to ensure  
12          this growth continues. In 2015, the  
13          statewide economic impact of the tourism  
14          industry exceeded \$100 billion for a second  
15          straight year. This amounts to more than  
16          \$63 billion in direct visitor spending and an  
17          estimated \$8 billion in state and local tax  
18          revenue. We expect to exceed those numbers  
19          once again in 2016.

20                    The Excelsior Jobs Program has issued  
21          nearly \$92 million in tax credits to 102  
22          businesses since 2010, resulting in the  
23          creation of more than 10,000 jobs statewide.  
24          Through this performance-based program, we

1 are able to stimulate job creation while  
2 maintaining oversight, ensuring that  
3 companies reach milestones before receiving  
4 incentives. The program has been critical to  
5 successfully attracting many companies and  
6 major projects and the jobs they generate.

7 As outlined in the Governor's  
8 Executive Budget, we are proposing to refine  
9 the focus of the program currently known as  
10 START-UP NY, while continuing to promote  
11 partnerships between business and academia.  
12 In a few short years, the program has already  
13 received commitments from more than 200  
14 companies to create nearly 4500 new jobs  
15 throughout the state and invest approximately  
16 \$250 million.

17 The Excelsior Business Program, as  
18 proposed, would admit early and  
19 formative-stage companies in targeted  
20 high-growth industries while continuing to  
21 incentivize business growth and job creation  
22 for participating companies.

23 Furthering our investments in  
24 public/private partnerships, Governor Cuomo

1 has introduced a \$650 million investment to  
2 spur growth in the life science industry.  
3 This comprehensive initiative includes  
4 \$250 million in tax incentives for new and  
5 existing life science companies, \$200 million  
6 to support the infrastructure needs of life  
7 science entities, and \$200 million of new  
8 investment capital for early-stage life  
9 science firms.

10 The first investment under this  
11 initiative will provide \$15 million to  
12 support the buildout of the JLABS Innovation  
13 Center, a collaboration between Johnson &  
14 Johnson and the New York Genome center, with  
15 capacity for up to 30 life science startups.

16 Governor Cuomo has also proposed the  
17 Photonics Venture Challenge, a \$10 million  
18 multiyear competition and business  
19 accelerator program designed to support  
20 startup companies that commercialize rapidly  
21 developing technologies.

22 In recent years, Governor Cuomo and  
23 the Legislature have cut taxes significantly  
24 for manufacturers, and we're taking our

1 support for American manufacturing a step  
2 further with the Governor's Buy American  
3 proposal. Under the plan, state entities  
4 will give preference to American-made goods  
5 and products for procurements over \$100,000.

6 New York's commitment to minority- and  
7 women-owned business enterprises has  
8 established the state as a national leader in  
9 MWBE business development. The number of  
10 certified MWBEs currently stands at nearly  
11 8,000, with more than 5,000 certified since  
12 2011. Key to the success of this program is  
13 the utilization of MWBE firms in state  
14 contracting, which most recently increased to  
15 over 25 percent, totaling nearly \$2 billion  
16 in contracts awarded to MWBEs in the  
17 2015-2016 fiscal year. This year's budget  
18 will extend the program through 2018.

19 The Executive Budget also includes a  
20 three-year extension of the New York State  
21 Film Tax Credit Program at the existing  
22 funding level. Since 2011, more than 1,000  
23 film and television projects have submitted  
24 applications to the program, generating an

1 estimated \$15 billion in spending and  
2 approximately 934,000 new hires in New York  
3 State. The number of qualified production  
4 facilities across the state has increased to  
5 77, with more than 270 sound stages. The  
6 program continues to generate a positive  
7 return on investment while providing a boost  
8 to local small businesses.

9 Last September Governor Cuomo directed  
10 ESD to oversee and manage SUNY Polytechnic  
11 Institute's portfolio of economic development  
12 projects. We immediately went to work on the  
13 process of assessing each project, engaging  
14 with the businesses and project stakeholders  
15 and reviewing related contracts and  
16 documentation. We have been managing myriad  
17 projects statewide and also achieved  
18 substantial reforms at SUNY Poly's economic  
19 development entities Fort Schuyler and Fuller  
20 Road Management, which established greater  
21 transparency, accountability, and integrity.

22 ESD remains committed to ensuring that  
23 ongoing economic development projects  
24 continue to move forward, create new jobs,

1 and generate opportunities without  
2 unnecessary delays.

3 In closing, we've had a very busy  
4 start to the new year, and ESD has a lot of  
5 work ahead. But that is when this agency  
6 thrives. And I want to say I'm joined today  
7 by many members of the ESD team, and we have  
8 over 500 people who work at Empire State  
9 Development doing an amazing job across the  
10 state, and I'm extremely proud to be  
11 associated with all of them.

12 We do look forward to these new  
13 opportunities and working with you, our  
14 legislative partners, to move our economy  
15 ever upward. I want to thank you again for  
16 this opportunity to testify and close with a  
17 quote from the great football coach and  
18 philosopher Marv Levy, who said: "Where else  
19 would you rather be but right here and right  
20 now?"

21 CHAIRWOMAN YOUNG: Thank you,  
22 Mr. Zemsky, for that testimony.

23 And we have several members who have  
24 questions. We would like to start with



1 Senator Phil Boyle, who is chair of the  
2 Senate Standing Committee on Commerce,  
3 Economic Development and Small Business.

4 Chairman?

5 SENATOR BOYLE: Thank you, Madam  
6 Chairwoman.

7 And thank you, Commissioner, for  
8 joining us and for your testimony.

9 I just wanted to touch on -- well, you  
10 painted a rosy picture of our economic  
11 development in New York State, but obviously  
12 anybody who reads the newspaper and sees the  
13 media knows that there's true problems. And  
14 I'm going to leave it to some of my upstate  
15 colleagues perhaps to talk about some of the  
16 projects up there. I'd like to focus on the  
17 Regional Economic Development Council, about  
18 what I'm concerned about, a lack of  
19 transparency and openness.

20 I'll tell you a quick comment before  
21 my question. Senator Flanagan, the Senate  
22 leader, recently appointed me as Long Island  
23 Regional Economic Development Council Senate  
24 representative. Before our first meeting, I

1           went and met with the executive director.  
2           And I was excited about being there. This  
3           was a new thing. I'd read about all the  
4           ribbon cuttings and the big promotion up here  
5           and the naming of the projects. So I simply  
6           asked, "Can I have copies of the previous  
7           four years of votes?" I wanted to know which  
8           of my new colleagues on the Long Island  
9           Council liked high-tech, which liked tourism,  
10          just to get a feel. And I was told, "You  
11          can't have them."

12                        I was a little shocked by that, and I  
13          said, "Well, I'm just trying to find out -- I  
14          really" -- "You can't have the votes." I  
15          said, "We're talking about hundreds of  
16          millions of dollars in taxpayer money. But I  
17          just want to see the votes myself." I was  
18          told no.

19                        And I said, "Wait a minute. I'm a  
20          State Senator. I'm a new member of the  
21          Long Island Regional Economic Development  
22          Council, and I also have happen to be  
23          chairman of the Economic Development  
24          Committee in the Senate -- and I can't see

1           them?" And she said, "Well, I guess you  
2           could FOIL for them if you really wanted  
3           them."

4                       That is our taxpayers' money. And as  
5           a government official, asking for votes to  
6           see who voted how with our taxpayer money --  
7           and it was not permitted for me to have. So  
8           I can't imagine the average New York citizen  
9           who wants to know how their taxpayer money is  
10          being spent and voted on.

11                      Now, as you know, as state  
12          legislators, Assemblymembers and Senators,  
13          our votes are up there, public, on the  
14          Internet. Everyone can see them.

15                      My question to you, quite simply, is  
16          why are not the votes and the scoring of the  
17          Economic Development Councils made public, as  
18          well as the conflict of interest forms that  
19          they fill out? They go around the table,  
20          fill out the form, it's handed in -- I don't  
21          think anybody ever sees them. Why are those  
22          not made public in a true effort to make it  
23          transparent, so we know what's going on with  
24          our economic development money?

1                   COMMISSIONER ZEMSKY: Right, yeah.  
2                   So, you know, they -- I understand you're an  
3                   elected official and you're held to a  
4                   standard and a transparency standard. Every  
5                   one of these projects has a score associated  
6                   with it. You could actually look up the  
7                   scores on the different projects. You've got  
8                   a group of people who I think are doing a  
9                   fabulous job on these regional councils.  
10                  They're volunteering their time, and they've  
11                  both developed strategic plans and they're  
12                  helping to analyze and assess how different  
13                  projects align with the plans.

14                  So the council in total has a score.  
15                  But you're right, every individual score is  
16                  not -- I'm not even sure every individual  
17                  score is necessarily logged. But they are  
18                  not -- they have no statutory responsibility.  
19                  They act as an advisory board. So they make  
20                  recommendations without, I think, the  
21                  unnecessary pressures of who is supporting  
22                  this project and who's supporting that  
23                  project. They're trying to be as objective  
24                  and independent as possible.

1                   And I think without having to have --  
2                   they're not elected officers. They're doing,  
3                   I think, a tremendous service. And, you  
4                   know, the Long Island Regional Council has  
5                   been one of the most successful councils in  
6                   the state. I think they've done a remarkable  
7                   job. But they recommend projects  
8                   collectively. They go to the state agencies  
9                   that review them further. But they are not,  
10                  you know, establishing a public record that  
11                  they're running on, and they haven't been  
12                  elected. But they are, I think, doing an  
13                  amazing job advancing projects to state  
14                  agencies for consideration, and I think  
15                  that's the distinguishing characteristic.

16                  SENATOR BOYLE:    If I could just  
17                  follow up on that. And I am not trashing the  
18                  members of these councils all over the state.  
19                  They volunteer their time, businesspeople,  
20                  big people from the community -- there's no  
21                  question about it, they do a great job.

22                  However, we don't know if there's  
23                  potential conflicts of interest because it's  
24                  not made public. How are we to know that?

1           And I'll give you an example. In Suffolk  
2           County, we have a big case going on right now  
3           where an assistant district attorney fills  
4           out a financial disclosure form -- and no one  
5           is allowed to see it -- to say they don't  
6           know about potential conflicts of interest  
7           for his or her position. Okay?

8                         And the same is true here. I don't  
9           care if they're volunteers, we still need to  
10          know. Because we don't know if some of the  
11          people on these councils -- and I'm not  
12          talking about Long Island in particular, all  
13          around the state -- are being paid, are  
14          consultants for some of the very groups and  
15          companies that are getting this taxpayer  
16          money. They might be getting paid on the  
17          side and we don't even know it.

18                        If they filled out the form -- and  
19          they volunteer their time, I appreciate that.  
20          But it would not take much time to say where  
21          did they get their income from potential  
22          conflicts so we can see what's going on.

23                        COMMISSIONER ZEMSKY: I mean, they do  
24          sign a code of conduct, they do sign

1 conflicts of interest, they do provide us  
2 with, you know, information that remains  
3 confidential, but we're able to ascertain  
4 whether there's any conflict of interest.

5 But I've served on a regional council.  
6 I'm familiar with all the regional councils.  
7 I would say over 5,000 projects have been  
8 evaluated and scored. And it's not just true  
9 of Long Island, it's true across the state.  
10 I think these have been -- people have really  
11 followed -- I've lived in those regional  
12 councils for four years before joining ESD,  
13 and for two years since. You know, people  
14 take that responsibility very seriously. A  
15 lot of time is spent on explaining the  
16 importance and conduct, and those have only  
17 been enhanced over time.

18 I think these councils operate, you  
19 know, with great professionalism. And I  
20 think people do recuse themselves when  
21 appropriate, and they do understand the code  
22 of conduct and the conflict of interest.

23 SENATOR BOYLE: Thank you,  
24 Commissioner.

1 CHAIRWOMAN YOUNG: Thank you.

2 We've been joined by Senator Tim

3 Kennedy.

4 Chairman?

5 CHAIRMAN FARRELL: We've been joined

6 by Assemblywomen Woerner, Bichotte, Hyndman,

7 and Glick.

8 Mr. O'Donnell, Danny O'Donnell.

9 ASSEMBLYMAN O'DONNELL: Good morning.

10 Please bear with me, I'm new to this

11 committee. I believe the happiest man in

12 state government is Tony Annucci; he no

13 longer has to respond to my letters.

14 I want to focus a little bit on the

15 tourism budget and the I Love New York.

16 That's you, right, I Love New York? You do

17 that?

18 COMMISSIONER ZEMSKY: Yup. Yup.

19 That's part of the agency.

20 ASSEMBLY O'DONNELL: So are you or

21 your people responsible for the signs on the

22 highway?

23 COMMISSIONER ZEMSKY: It's not run out

24 of ESD specifically, but we are responsible



1 for tourism promotion and we do look to raise  
2 people's awareness of our many tourism  
3 products, be it Pathways through History,  
4 State Parks, and many other -- Taste NY and  
5 other tourism promotion projects.

6 ASSEMBLYMAN O'DONNELL: So it's your  
7 people who designed and approved those signs;  
8 correct?

9 COMMISSIONER ZEMSKY: It's not -- the  
10 signage -- we oftentimes are involved in  
11 helping with the aesthetics or the design  
12 characteristics. But we're not involved in,  
13 you know, implementing or placing the signs  
14 as such.

15 ASSEMBLYMAN O'DONNELL: I didn't think  
16 that you dug the holes, sir. But what I want  
17 to know is who designed what they look like  
18 and who let the contract out for the people  
19 who made the signs. Is that you or is that  
20 somebody else?

21 COMMISSIONER ZEMSKY: I honestly don't  
22 know exactly who let the contract out for the  
23 people who designed the signs, if we used an  
24 ad agency or we did it internally or some of

1 the state agencies did it.

2 ASSEMBLYMAN O'DONNELL: And did  
3 someone in your agency review what they were  
4 to see whether or not they were compliant  
5 with federal law?

6 COMMISSIONER ZEMSKY: Again, we're not  
7 involved in the placement of signs on the  
8 roadways. So we're involved in tourism  
9 promotion. And so the design element of it  
10 really doesn't connect to, you know, what the  
11 laws are for roadway signs.

12 ASSEMBLYMAN O'DONNELL: So somebody in  
13 the I Love New York program not involved in  
14 designing the I Love NY signs, is that what  
15 you're telling me?

16 COMMISSIONER ZEMSKY: You asked me if  
17 we were involved in placing the signs on the  
18 road --

19 ASSEMBLYMAN O'DONNELL: No, I didn't.  
20 I acknowledged that you don't do that.

21 COMMISSIONER ZEMSKY: -- and my answer  
22 is we are not involved.

23 ASSEMBLYMAN O'DONNELL: I'm asking you  
24 whether or not your agency was involved in

1 designing what the signs looked like. Not  
2 did they dig the holes on the highway and put  
3 them in.

4 COMMISSIONER ZEMSKY: Yes, either  
5 directly or through an ad agency, I'm sure we  
6 were involved in the tourism promotion  
7 aspects of the signage.

8 ASSEMBLYMAN O'DONNELL: Could you tell  
9 me what the Cultural Arts and Public Space  
10 Fund is? And how will that be administered?

11 COMMISSIONER ZEMSKY: It's intended to  
12 enhance public art in downtown areas in the  
13 state. And I'm sure it will be handled, in  
14 all likelihood, either through REDC or, you  
15 know, appropriate arts organizations.

16 ASSEMBLYMAN O'DONNELL: And so how  
17 would someone become aware that this fund  
18 existed, how would they know -- or what are  
19 the eligibility requirements to get that  
20 money, and who do they apply to?

21 COMMISSIONER ZEMSKY: Well, once the  
22 budget is approved and all the details are  
23 ironed out, we typically are communicating  
24 that regionally. And so people have the

1 opportunity to apply, make a presentation to  
2 get funding, like happens with so many of our  
3 other projects and programs.

4 ASSEMBLYMAN O'DONNELL: The Executive  
5 has proposed construction of additional  
6 Welcome Centers like the one on Long Island.  
7 Where will that come from, that funding? And  
8 what do you expect the economic impact of  
9 Welcome Centers to be?

10 COMMISSIONER ZEMSKY: The Welcome  
11 Centers so far have been well-received. And  
12 again, they're just a component of promoting  
13 the state's tourism industry, which has been  
14 growing dramatically.

15 So I think it's to be determined  
16 exactly what the source of funding for those  
17 Welcome Centers are. But, you know, it's  
18 something that I believe is one of our goals  
19 over the next year or so, is to design and  
20 build, construct more Welcome Centers, at  
21 some point hopefully in every region of the  
22 state.

23 ASSEMBLYMAN O'DONNELL: Have you  
24 chosen where you think they should go?

1                   COMMISSIONER ZEMSKY: We have not in  
2 all cases chosen where they should go.

3                   ASSEMBLYMAN O'DONNELL: And who from  
4 the Legislature would you consult with about  
5 where you should put those Welcome Centers?

6                   COMMISSIONER ZEMSKY: You know, it's  
7 not just an ESD function where Welcome  
8 Centers go. We work with state agencies, we  
9 work with DOT, we work with local  
10 municipalities. We're, you know, engaged  
11 with local legislators through the REDC  
12 process. So it's not really a -- I don't  
13 think it would be a mystery where the  
14 potential signs would go. But you'd have the  
15 appropriate state agencies working together  
16 to advance potential sites.

17                   ASSEMBLYMAN O'DONNELL: One final  
18 question. You have some information about an  
19 LGBT memorial for the massacre in Orlando.  
20 Have you consulted with local legislators  
21 about that project, and what is the status of  
22 that project?

23                   COMMISSIONER ZEMSKY: I'm sorry, can  
24 you say that again?

1 ASSEMBLYMAN O'DONNELL: There is a --  
2 the Governor proposed an LGBT memorial  
3 relating to the massacre that occurred in  
4 Orlando, Florida. The two-part question is  
5 is, one, have you included consultation with  
6 state legislators about that project? And B,  
7 what is the status of that project?

8 COMMISSIONER ZEMSKY: Yeah, that  
9 would, in all likelihood, be worked out with  
10 Parks.

11 ASSEMBLYMAN O'DONNELL: I'm sorry?

12 COMMISSIONER ZEMSKY: I believe that  
13 would be led by Parks.

14 ASSEMBLYMAN O'DONNELL: Led by Parks.  
15 Thank you very much.

16 CHAIRWOMAN YOUNG: Thank you.

17 Senator DeFrancisco.

18 SENATOR DeFRANCISCO: Yes, I noticed  
19 that there were changes in the program this  
20 year as far as people that would be eligible  
21 for assistance from the Economic Development  
22 office. Can you just state as briefly and  
23 succinctly as you possibly can what those  
24 changes are?

1                   COMMISSIONER ZEMSKY: Which program is  
2 particularly --

3                   SENATOR DeFRANCISCO: The Excelsior,  
4 it's called now.

5                   COMMISSIONER ZEMSKY: Yeah, the  
6 Excelsior Business Program?

7                   SENATOR DeFRANCISCO: Right.

8                   COMMISSIONER ZEMSKY: Yeah. So it's  
9 really for -- it's more narrowly focused on  
10 early-stage companies.

11                  SENATOR DeFRANCISCO: Smaller  
12 companies or just early -- is there a  
13 critical mass that the company has to be at  
14 before they start being looked at for various  
15 benefits?

16                  COMMISSIONER ZEMSKY: It would be  
17 generally earlier stage, pre-income, in  
18 development, R&D-related companies.

19                  SENATOR DeFRANCISCO: And other than  
20 R&D-related companies, is there any specific  
21 categories that it's limited to?

22                  COMMISSIONER ZEMSKY: I mean, it  
23 wouldn't apply to retail and some of the  
24 other nontradable sectors of the economy.

1 But it would be very similar to START-UP,  
2 upstate's version of START-UP, in that many  
3 of those industries would apply.

4 SENATOR DeFRANCISCO: And if I  
5 understand it correctly, even the creation of  
6 just one job would make them eligible if it's  
7 the proper type business that's likely to  
8 grow, is that the idea?

9 COMMISSIONER ZEMSKY: Yes. That's  
10 exactly the same as it is in the current  
11 program.

12 SENATOR DEFRANCISCO: Okay. Now I'm  
13 going out to left field here because I want  
14 to talk a little bit about one of the main  
15 problems that these small businesses have in  
16 the State of New York, and I want to -- I'm  
17 not going to read all the facts and all the  
18 difficulties, but we have this discussion, at  
19 least in the Republican Conference,  
20 frequently about the high cost of doing  
21 business in the State of New York.

22 And one of the big problems -- and I  
23 know this isn't quite your area, but in your  
24 bag of tools, I think this is important to



1 really focus on -- that's workers' comp. And  
2 I just want to -- it's my understanding --  
3 there was reforms done in 2007, and the  
4 reforms haven't quite worked out well. And  
5 let me tell you what's being found.

6 In classifying the type of injury the  
7 person has and the type of recovery they're  
8 entitled to, the classifications, since the  
9 so-called reforms in 2007 -- I'm asking you  
10 to use the weight of your office to try to  
11 get something moving, and I'll tell you what  
12 I'd like to see moving -- the time it takes,  
13 the average time to classify a worker to see  
14 what their grant is going to be is four times  
15 as long as it was before 2007.

16 And there's reasons for that, but I  
17 won't go into them. But they're not valid  
18 reasons, in my mind.

19 And it's resulted in the average cost  
20 of a claim of over \$60,000. Now, some of  
21 that has to do with how the classification  
22 process take place and the length and time it  
23 takes. Clearly, people have to be classified  
24 correctly. But there's no reason, after

1 reforms, it should take four times as long,  
2 which increases the ultimate recovery.

3           The other thing -- and this I'd really  
4 like to get an answer on and then I'll be  
5 quiet. Back in 2007 -- excuse me, recently  
6 the Workers' Comp Board has developed new  
7 guidelines as to what your impairments are  
8 and how you classify individuals. And these  
9 have been in effect, the new regulations have  
10 been in existence -- not effective -- for  
11 over a year. And many businesses, small and  
12 large, have come to me and said, One of my  
13 problems in trying to grow is that if these  
14 guidelines went into effect, it would help  
15 the process -- because some have reviewed  
16 these guidelines.

17           So a very simple ask, and I'll leave  
18 all the other hard questions for the other  
19 people. A simple ask. Can you find out, as  
20 head of Economic Development, wanting to grow  
21 businesses in this state, big and small, why  
22 those guidelines have not been released and  
23 why they're not effective at this point in  
24 time? Because I think it would help all

1 businesses, large and small.

2 COMMISSIONER ZEMSKY: Okay.

3 SENATOR DeFRANCISCO: Okay? That's  
4 all I'm asking. Sorry to take the time. But  
5 I think it's just as important as giving  
6 money to people, helping businesses to grow  
7 to make it more -- less costly to grow those  
8 businesses. Thank you.

9 COMMISSIONER ZEMSKY: I mean, as you  
10 know, I don't have an answer to exactly why  
11 certain regulations around workers' comp have  
12 or haven't been adopted or implemented.

13 But I will say that very obviously  
14 we're sensitive to the cost of doing  
15 business. And I think we have a lot to be  
16 proud of collectively, both the Legislature  
17 and the Governor, in terms of bringing down  
18 the cost of doing business in New York State,  
19 in terms of the tax burdens -- property tax  
20 burdens, income tax burdens, things of that  
21 nature.

22 So I think New York has become a lot  
23 more competitive. That's one of the reasons  
24 I think we're seeing so much economic growth

1 in New York State. And I know workers' comp  
2 is certainly one component of the cost of  
3 doing business.

4 SENATOR DeFRANCISCO: The reason I'm  
5 bringing this up is I want you to be even  
6 more proud of what's going on in the State of  
7 New York as far as businesses.

8 COMMISSIONER ZEMSKY: You got it.

9 SENATOR DEFRANCISCO: Okay, thank you.

10 CHAIRWOMAN YOUNG: Thank you, Senator.

11 We've been joined by Senator Tom

12 Croci.

13 Chairman?

14 CHAIRMAN FARRELL: Next, Assemblyman  
15 Schimminger.

16 ASSEMBLYMAN SCHIMMINGER: Thank you  
17 very much, Mr. Chairman.

18 Mr. Zemsky, I read in your testimony  
19 that you've spoken highly of the initiative  
20 by the Governor to assist the life sciences  
21 industry here in New York State. This is one  
22 of the highlights of his budget. Elsewhere  
23 in his budget, however, he proposes to give  
24 the state the authority to impose price

1 ceilings on the products that these  
2 pharmaceutical companies make, a variety of  
3 changes which impede their ability to  
4 successfully, I think, do business here in  
5 New York State.

6 How do you relate these two phenomena?  
7 On the one hand, an initiative to encourage  
8 them to locate here; on the other hand, an  
9 initiative to compromise their ability to  
10 succeed.

11 COMMISSIONER ZEMSKY: Well, I mean,  
12 whether we compromise their ability to  
13 succeed or not is probably a matter of a  
14 judgment and opinion. I don't think the  
15 intention is to create a pricing structure  
16 that actually limits the ability of life  
17 science companies to succeed. That's a  
18 pretty broad statement.

19 So I think it's a concern, obviously,  
20 for the cost of some of these medicines that  
21 have gotten very broad attention and I think  
22 offends some people's sensibility. So I  
23 think having a look at that and having a role  
24 in pricing is something that should

1 definitely be considered. It's not something  
2 that comes out of ESD.

3 ASSEMBLYMAN SCHIMMINGER: But it comes  
4 out of our State Budget.

5 Earlier last week I was -- my  
6 sensibilities were offended. But later in  
7 the week, the Governor announced some grants  
8 under the RESTORE NY program. It's not a  
9 program that he created. It existed before  
10 he became the Governor. I was happy to see  
11 that he moved forward with that funding,  
12 \$40 million in RESTORE NY grants, including  
13 one in my Assembly district. I was elated.

14 The question is, would the Governor be  
15 receptive to additional funding for this  
16 RESTORE NY program, a program which benefits  
17 potentially all communities across New York  
18 State?

19 COMMISSIONER ZEMSKY: I believe he has  
20 been supportive of RESTORE NY funding. And I  
21 think you're right, I think it has had a  
22 tremendous impact across all the regions of  
23 the state.

24 ASSEMBLYMAN SCHIMMINGER: Thank you

1 very much.

2 In regard to the REDCs, I've read in  
3 the Governor's budget narrative much about  
4 the success of the REDCs. They have awarded  
5 nearly \$4.6 billion, and they are credited  
6 with creating or retaining over 210,000 jobs.

7 The REDCs have existed over the past  
8 six years. The REDCs do not exist in  
9 regulation -- that's right, right -- they do  
10 not exist in executive order, they do not  
11 exist in statute. They exist. Okay?

12 This is a question, now, not about  
13 giving me control over the REDCs, this is a  
14 question about whether or not the REDCs  
15 should be bound by some of the same ethical  
16 governance as other entities in New York  
17 State. We've seen the problems that occurred  
18 with Fort Schuyler. The Governor tasked your  
19 agency with assuming a lead role, and your  
20 agency has stepped forward and made some  
21 changes. Included in those changes are  
22 various kinds of ethical disclosure for  
23 members of the REDC board, and so on.

24 Also, in his budget the Governor

1 proposes that we legislators -- he does this  
2 in his capital projects appropriation bill --  
3 we legislators file written declarations of  
4 no financial interest and an absence of any  
5 financial benefit if we are involved in  
6 pushing a program. The latter change would  
7 be in statute. Okay?

8 The changes you made at Fort Schuyler  
9 are in your internal operations.

10 The question is given the success of  
11 the REDCs and the fact that they have  
12 continued for six years, is it not now time  
13 to codify the REDCs, the Regional Economic  
14 Development Councils?

15 COMMISSIONER ZEMSKY: You know, we  
16 talked about this earlier. The REDCs have a  
17 code of conduct, the members are volunteers,  
18 and they are -- they have no statutory  
19 authority. So they're an advisory board.  
20 They make recommendations, they score  
21 projects, they advance those scores and  
22 recommendations to one of a dozen state  
23 agencies. Sometimes those projects are  
24 funded, sometimes they are not funded. It's



1 a recommendation. It's not an edict, and  
2 they don't have any statutory responsibility.

3 They sign a code of conduct, they're  
4 trained on a code of conduct, they follow the  
5 code of conduct, and the same for a conflict  
6 of interest.

7 I think the REDCs have done an amazing  
8 job. I think it is virtually impossible to  
9 dispute the tremendous impact it's had on the  
10 economy across the State of New York. And it  
11 is so dramatically different -- and you and I  
12 live in the same region of the state, and we  
13 have seen dramatic transformation -- I've  
14 only been there for 35 years; you have been  
15 there even longer.

16 ASSEMBLYMAN SCHIMMINGER: Twice,  
17 almost.

18 (Laughter.)

19 COMMISSIONER ZEMSKY: Okay. So we  
20 have seen the type of economic growth that we  
21 couldn't have imagined six years ago. And in  
22 fairness, we've seen the type of economic  
23 growth that we hadn't experienced in that  
24 region for many decades previously. I think

1           that's a fair statement, and it needs to be  
2           pointed out.

3                         We turned the tide in Western New York  
4           and across the state by being -- and I have  
5           every one of those plans here. I think one  
6           of the things we should be incredibly proud  
7           of, and I think that leads the country, are  
8           how robust these 10 strategic plans are  
9           across the State of New York. They're an  
10          amazing 180-degree change in direction of  
11          economic development that has had a  
12          tremendously positive impact.

13                        So we have codes of conduct, we have  
14          conflicts of interest, but we also have an  
15          economy now that is firing on nearly every  
16          cylinder, whose regions, like Western  
17          New York, have \$19.2 billion of investment  
18          lined up -- we couldn't have ever imagined  
19          anything like this -- who have young people  
20          growing, who have wages growing, have job  
21          creation. Housing values are up. Optimism  
22          is off the charts. We've done more in six  
23          years in Western New York and many regions of  
24          the state than, I mean, honestly any of us

1           could have imagined or any of us who were  
2           involved over a long period of time had ever  
3           really previously experienced.

4                     ASSEMBLYMAN SCHIMMINGER: All of that  
5           being said, might it not now be the time to  
6           crown these achievements by codifying the  
7           REDCs?

8                     COMMISSIONER ZEMSKY: Again, I hope  
9           the REDCs are in place 20 years from now. I  
10          think the strategic economic development  
11          approach has a great impact.

12                    And I have from your own Assemblyman  
13          website your own favorable comments about the  
14          economic impact of REDC, and I appreciate --

15                    ASSEMBLYMAN SCHIMMINGER: Good  
16          research.

17                    COMMISSIONER ZEMSKY: -- and I  
18          appreciate that. And many of the projects  
19          that you list that have been funded in your  
20          district completely, and not coincidentally,  
21          align with the strategic plan of Western  
22          New York. So Niagara Street Corridor,  
23          activating the waterfront, workforce  
24          training -- these are all the foundation of

1           our economic strategy and they're playing out  
2           in your district and they're playing out  
3           throughout Western New York.

4                        So, you know, what I really hope is  
5           that the REDCs get a really well deserved pat  
6           on the back from everyone, because you've got  
7           now dozens of people in each of these regions  
8           really helping -- economic development went  
9           from a spectator sport to an active sport in  
10          these regions, and I think it's fabulous.

11                       ASSEMBLYMAN SCHIMMINGER: Thank you.  
12          And perhaps the crowning achievement can be  
13          someday, somehow, a codification of these  
14          REDCs.

15                       Let me go on to the final subject that  
16          I wanted to talk about, and that is one that  
17          you have talked about before and you've said  
18          a lot of favorable things about it, the  
19          START-UP NY program. This is the program  
20          which of course was created in 2013, it was  
21          heralded by the Governor as being a  
22          game-changer, transformational. Got off the  
23          ground in 2014. A report was made. In 2015  
24          another report was made, albeit a bit late

1 and a bit skimpy.

2 In this budget, though, something  
3 surprising happened. In this budget the  
4 Governor's Executive Budget proposed a  
5 transmogrification of the program from  
6 START-UP NY into another program called  
7 Excelsior Business Program. Everywhere that  
8 START-UP NY was referenced in the law was  
9 deleted and changed to Excelsior Business  
10 Program. And some of the parameters of the  
11 program were also adjusted. Okay?

12 COMMISSIONER ZEMSKY: Right.

13 ASSEMBLYMAN SCHIMMINGER: I don't want  
14 to go to that, but I want to go somewhere  
15 else. And that was later in the language  
16 that the Governor submitted, the Governor  
17 completely eliminated the reporting  
18 requirement for Empire State Development  
19 Corporation in regard to the new program --  
20 and the old program, START-UP -- and plugged  
21 it into a different section of law which  
22 dealt with reporting by the Excelsior Jobs  
23 Program, a far less robust set of reporting  
24 requirements. Pretty, I would say, vanilla.

1           And even there, for the programs in that  
2           category, the frequency of reporting was  
3           changed from quarterly to yearly.

4                        In addition, the reporting  
5           requirements for the businesses that are in  
6           START-UP/Excelsior Business Program were  
7           significantly truncated.

8                        So it strikes me -- and this is  
9           something that bothers me. This is a program  
10          which is a tax-free program. The highest  
11          order of generosity from the state, tax free.  
12          And yet we are vanilla-izing and truncating  
13          the reporting requirements.

14                       How does that jibe with you?

15                       COMMISSIONER ZEMSKY: I mean, we  
16          are -- ESD is putting -- would put together  
17          that report. I mean, I think we do -- would  
18          have a robust report. I mean, I think what  
19          happened was it got so convoluted -- and  
20          sometimes when this legislation comes  
21          together there are so many, you know,  
22          at-the-last-minute requirements that make it  
23          hard to interpret or understand exactly what  
24          the reporting is.

1           You and I have -- some might use the  
2           word sparred or disagreed on definitions or  
3           numbers. It should -- and I've met with 40  
4           START-UP NY companies. It shouldn't be so  
5           burdensome to report the numbers and provide  
6           it to us and to the public.

7           And we'd be very pleased to report in  
8           a robust way on these programs. We do that  
9           now. Many of our reports are issued  
10          quarterly or annually. And if we could do a  
11          report that has less consternation and less  
12          confusion and less burden on the companies,  
13          we'd be very pleased to do that.

14          ASSEMBLYMAN SCHIMMINGER: The chairman  
15          tells me my time is up.

16          CHAIRWOMAN YOUNG: Thank you.

17          CHAIRMAN FARRELL: Thank you.

18          We've been joined by Helene Weinstein.  
19          And Mr. Oaks has got --

20          ASSEMBLYMAN OAKS: Yes, we've also  
21          been joined by Mr. McLaughlin, Mr. Crouch,  
22          and Mr. Murray.

23          CHAIRWOMAN YOUNG: Our next speaker is  
24          Senator Terrence Murphy.





1 economic development for life sciences.

2 Can you provide me with an explanation  
3 for the funds and what they will be used for?

4 COMMISSIONER ZEMSKY: Yeah, the Life  
5 Science Initiative is -- there's a few  
6 components to it. There's some tax  
7 incentives, refundable R&D tax credit  
8 program. And an angel investor tax credit  
9 program represents about \$250 million of it.  
10 This is over some years. I think of it as a  
11 10-year program.

12 Two hundred million dollars in state  
13 capital grants. That's geared toward really  
14 increasing the availability of wet lab space  
15 and things of that nature, which is really a  
16 constraint on life sciences. And  
17 \$200 million of investment capital or venture  
18 capital or early funding between government  
19 and private for early-stage life science  
20 companies.

21 SENATOR MURPHY: Two hundred million  
22 for the venture capital, you said? Okay.

23 Also in the Governor's proposal he  
24 appropriates \$207 million for the use of

1 strategic project programming. What is that  
2 funding being used for?

3 COMMISSIONER ZEMSKY: That would be  
4 for projects that are associated with SUNY  
5 Poly that -- with companies that we have been  
6 partners with, where we to some extent are --  
7 you know, one of the things we did when ESD  
8 got involved with SUNY Poly was to not only  
9 get the myriad of projects back on track but  
10 also to meet with so many of our partners and  
11 ascertain where commitments were made or  
12 obligations were owed or where different  
13 opportunities are.

14 And it really connects to SUNY Poly,  
15 and it connects to some outstanding  
16 obligations that we're negotiating. I think  
17 it's extremely important, given what's  
18 happened and all the time that ESD has spent  
19 and I have spent and our team has spent.

20 One of the things I really think we  
21 should put a high priority on this year is to  
22 reconcile and in some way square up with some  
23 of our partners, because there were times  
24 when we were -- we overpromised and

1 underdelivered. And I think we have to  
2 reassert and reestablish our credibility, and  
3 it connects to that.

4 SENATOR MURPHY: And there will be  
5 enough oversight on that?

6 COMMISSIONER ZEMSKY: Yes, that will  
7 be PACB. All those monies, when they come  
8 forward, will come forward for PACB review.

9 SENATOR MURPHY: It also seems that  
10 Johnson & Johnson has already announced the  
11 \$17 million that they would be receiving to  
12 create the JLABS in New York City. Where is  
13 that funding coming from?

14 COMMISSIONER ZEMSKY: JLABS would be,  
15 you know, ideally from the Life Science  
16 Initiative. There's other ways that we can  
17 pull money for that if there is no Life  
18 Science Initiative. Obviously, we would  
19 really like to see that happen. It's the  
20 perfect example of, you know, how we can  
21 partner. The state is investing the capital,  
22 but Johnson & Johnson is paying rent and is  
23 providing all the human capital for that  
24 program. And when you bring somebody like

1 J&J to the table, that is a major step  
2 forward for the life science industry in  
3 New York City and New York State. So, I  
4 mean --

5 SENATOR MURPHY: I agree with you.

6 COMMISSIONER ZEMSKY: We're confident  
7 one way or the other it's just too important,  
8 between economic development and Life Science  
9 Initiative, that we'll make that happen.

10 SENATOR MURPHY: Some of their biotech  
11 stuff that they do is fantastic.

12 Morphing into that, have you ever been  
13 to New York Medical College in Valhalla?

14 COMMISSIONER ZEMSKY: In Valhalla, I  
15 have not.

16 SENATOR MURPHY: I'd most certainly  
17 invite you down. They're doing incredible  
18 stuff. Exactly what you're trying to do in  
19 New York City is already being done  
20 30 minutes right outside. The biotech, they  
21 have 10 incubators down there and they're  
22 doing tremendous stuff. Phillips just made a  
23 massive investment into there, and it is  
24 probably going to be more cost-effective.

1                   I know Johnson and Johnson down there  
2                   in New York City, you pay about \$78 to \$86  
3                   per square foot. A little bit north is much,  
4                   much cheaper, and they've already got the  
5                   footprint in place. So I would most  
6                   certainly invite you down. I'd love to bring  
7                   you down and show you exactly what is already  
8                   being done that you're trying to do in  
9                   New York City, and it's literally a half-hour  
10                  right outside.

11                  COMMISSIONER ZEMSKY: Yeah. No,  
12                  that's great, I'd love to see that. That's  
13                  the best part of the job, frankly.

14                  And, you know, the initiative is not  
15                  geared exclusively to New York City. As you  
16                  know, we have a lot of amazing life science  
17                  research institutions, companies. You know,  
18                  not too far north of New York City you've got  
19                  a small company called Regeneron --

20                  SENATOR MURPHY: It's right there,  
21                  right next to it. We have the New York  
22                  Medical College, it's right next to it. And  
23                  that's what I'm saying. You've got a whole  
24                  nice little group, you've got a few campuses

1           there that you can have -- you have Ph.D.s  
2           and M.D.s all within a few doors down.

3                        So some of this stuff is really,  
4           really cutting-edge stuff that -- they're  
5           doing incredible stuff to try and cure  
6           pancreatic cancer, things like that. So  
7           it's --

8                        COMMISSIONER ZEMSKY:  Yup.  No, I'd  
9           love to see it.

10                      SENATOR MURPHY:  I most certainly  
11           invite you down before we go into spending  
12           millions and millions of dollars when we  
13           already have a footprint in place.

14                      CHAIRWOMAN YOUNG:  Thank you.  Thanks,  
15           Senator Murphy.

16                      CHAIRMAN FARRELL:  Next, the chairman  
17           of Small Business, Assemblyman Thiele.

18                      ASSEMBLYMAN THIELE:  Thank you.

19                      Hi, Howard, how are you?

20                      COMMISSIONER ZEMSKY:  Good,  
21           Assemblyman, how are you?

22                      ASSEMBLYMAN THIELE:  Would you  
23           consider this START-UP NY tax-free program to  
24           be a success?

1                   COMMISSIONER ZEMSKY: Yeah, I do. And  
2                   I consider it -- I mean, here's how I think  
3                   about it. Our whole goal in economic  
4                   development obviously is around job creation  
5                   and enhancing the wealth of the state.  
6                   Anyone's short list of key assets in this  
7                   state would be our colleges and universities.  
8                   You know, in the knowledge economy, New York  
9                   State is really well positioned. Right? I  
10                  mean, we have an amazing array of both public  
11                  and private colleges and universities.

12                 They operated in a way that wasn't  
13                 collaborative for a very long time, or wasn't  
14                 as collaborative as it should be. And when  
15                 you think about hotbeds of innovation and job  
16                 growth, you think about Silicon Valley.  
17                 Silicone Valley is, in fact, and was formed  
18                 out of that collaboration between research  
19                 and academia and industry. So good for them.

20                 That's a model that we were kind of  
21                 late to the table at. So I think we've  
22                 changed that culture. I have seen an amazing  
23                 change. I spent five hours recently at UB  
24                 with 30 START-UP NY companies. Half of

1           them -- I spent two and a half hours with  
2           tech companies and another two and a half  
3           hours with life science companies. And  
4           they're all START-UP NY.

5                         But that incredible synergy between  
6           all of those businesses, who are all helping  
7           one another, and the engineering school,  
8           which is helping them, and the business  
9           school, which is helping them, and the ESD  
10          programs at NYSTAR, like Centers of  
11          Excellence, Centers of Advanced Technology,  
12          all working together, is having a dramatic  
13          impact on the ecosystem of innovation. And  
14          I'm not -- I'll just -- I won't go on much  
15          longer, I know you're getting tired of me  
16          talking on this.

17                        ASSEMBLYMAN THIELE: Well, here's my  
18          question, really. You have an ESCC report  
19          that says only 408 jobs have been created.  
20          But my real question is, if this is such a  
21          successful program, why is this year's budget  
22          rebranding this program and changing the name  
23          of it? I don't recall anybody ever changing  
24          the I Love New York program. It's a great,



1           successful program. People know it near and  
2           far, they know it to be a success. If this  
3           is such a successful program and it's  
4           changing the culture of business in New York,  
5           why do we feel the need suddenly, after six  
6           years, to change the name?

7                    COMMISSIONER ZEMSKY: Well, of course  
8           it hasn't been six years. But the -- you  
9           know, we've tried to simplify the program in  
10          many ways. And in part this came out of my  
11          meetings with the START-UP NY companies. you  
12          know, we're trying to -- when you see -- if  
13          you had spent those five hours that I did,  
14          you would see the power of that  
15          collaboration. And trying to simplify the  
16          program, simplify the requirements --

17                   ASSEMBLYMAN THIELE: Do you think we  
18          could get collaboration between them without  
19          spending \$53 million in advertising?

20                   COMMISSIONER ZEMSKY: You know, in  
21          New York State we advertised the New  
22          New York. We advertised New York State. We  
23          had developed, for 40 years, a pretty lousy  
24          reputation in and out of the state as a place

1 to do business. With all that we have  
2 accomplished in the last six years, spending  
3 some money against our \$1.4 trillion economy  
4 I think makes good sense. I think we should  
5 continue to promote --

6 ASSEMBLYMAN THIELE: I don't mind  
7 spending money. I like to get a return on  
8 the investment of the money that I spend.  
9 And that's my question. What was the return  
10 on the investment of that \$53 million?

11 COMMISSIONER ZEMSKY: Well, the return  
12 on investment is the way we've changed  
13 dramatically the perceptions of New York  
14 State as a place to do business. So --

15 ASSEMBLYMAN THIELE: Would that be  
16 like the Tax Foundation's report that we're  
17 49th out of 50 states as far as tax climate  
18 goes? Is that the reputation that we've  
19 changed?

20 COMMISSIONER ZEMSKY: The reputation  
21 that we've changed is that we now have  
22 4.9 percent unemployment. We have an amazing  
23 economy --

24 ASSEMBLYMAN THIELE: And how much --

1           how much of that is due to the fact that the  
2           national economy and the national  
3           unemployment rate has improved, and we're  
4           riding that wave, as opposed to --

5                        COMMISSIONER ZEMSKY:  Some of it.  But  
6           New York State is doing a lot better than  
7           actually many of the states in the Northeast  
8           region.

9                        So, you know, there's a lot to it.  I  
10          think we're doing economic development in a  
11          very smart way.  I think we've become a lot  
12          more competitive.  I think we are -- we have  
13          20 different initiatives that we make  
14          tremendous progress on.  We are leading the  
15          country, leading the country, one, two or  
16          three in so many important categories --  
17          international visitors, tourism, start-up  
18          businesses, venture capital, job growth.

19                       We should tell our story.  The  
20          knowledge economy sets up beautifully for  
21          New York State, and we should tell our story.  
22          This state has changed so dramatically for  
23          the better.  What's the point of keeping it  
24          to ourselves?  We are doing business all

1           around the world. We should let people know  
2           this is the place to come, to invest, to grow  
3           your business, for tourism. We shouldn't be  
4           a secret. We've made enormous progress.

5                     ASSEMBLYMAN THIELE: I'd like to move  
6           on and talk a little bit about something that  
7           Senator Boyle talked about, and that is these  
8           Regional Economic Development Councils, which  
9           I agree with him really lack transparency,  
10          lack openness.

11                    And here's really my question. It  
12          seems to me that there's a lot of cronyism  
13          that goes on with these Regional Economic  
14          Development Councils, that people that serve  
15          on them as volunteers, their organizations  
16          get a lot of the grants or recommendations  
17          for grants that are part of this program.  
18          And the process, to me, seems to be, well,  
19          they abstain on their project, everybody else  
20          votes for it, and then somebody else who has  
21          a project, they abstain on their project and  
22          everybody else votes for it.

23                    What do you think the public response  
24          would be if on the floor of the legislature,

1           on a regular basis, Mr. Boyle abstained on a  
2           project that he was getting a material  
3           benefit for and all the other legislators  
4           voted for it, and then when somebody else's  
5           project came up, they all voted for it?  
6           Don't you think there would be calls for the  
7           United States Attorney's office to get  
8           involved on something like that?

9                        COMMISSIONER ZEMSKY:  You know, I just  
10           think that is so unfair the way -- to  
11           characterize the way these Regional Councils  
12           operate.  I think they're -- they doing an  
13           amazing job.

14                       We ask leaders to head the councils.  
15           If you're going to have somebody who heads  
16           the major academic institution, research  
17           institution in a region to head the council,  
18           you shouldn't be surprised that there are  
19           going to be some projects that appropriately  
20           and strategically align with that school.

21                       ASSEMBLYMAN THIELE:  I'm just  
22           saying --

23                       COMMISSIONER ZEMSKY:  Right?  And so  
24           they --

1 ASSEMBLYMAN THIELE: -- that that  
2 creates the appearance of inside dealing.

3 COMMISSIONER ZEMSKY: I think what we  
4 really lacked, what we really lacked for a  
5 really long time was any economic development  
6 plan for any of the regions or for this  
7 state. So the fact that we have 10 amazing  
8 economic development plans has been such a  
9 dramatic step forward, it's indescribable.

10 I'd love to see the economic  
11 development plan for the state or any of the  
12 regions that any of you are in from 10 years  
13 ago. Show me that economic development plan.  
14 Show me the one from 15 years ago.

15 ASSEMBLYMAN THIELE: Well, actually, I  
16 can show you the one -- I can show you one  
17 from Governor Mario Cuomo that the five  
18 East End towns that are the area that I  
19 represent got together with local officials  
20 and industry people and came up a plan, and  
21 didn't have to hire a consultant and many of  
22 those recommendations got enacted, so --

23 COMMISSIONER ZEMSKY: You know, I  
24 lived in one of the regions of the state for

1 a long time. I remember the amazing -- you  
2 know, Adelpia was going to be the next  
3 savior of Western New York. And then it was  
4 going to be Empire Zones, which didn't work  
5 out. Then it was the chip fab program in  
6 Western New York that never materialized.  
7 There was lots of empty promises, and there's  
8 a lot that didn't happen.

9 And so if you lived in upstate  
10 New York like I did for 35 years, the thing  
11 was sinking like a stone. So I have lived  
12 through the transformation that was once  
13 unimaginable -- excuse me, once  
14 unimaginable -- in the last six years.

15 ASSEMBLYMAN THIELE: I was only  
16 suggesting that we need more transparency for  
17 how that works, that's all.

18 COMMISSIONER ZEMSKY: So I think it is  
19 amazing. And any time anybody I think  
20 questions the integrity of the people who  
21 have now volunteered, in some instances for  
22 six years, I think it's fair to push back on  
23 that. They do an amazing job.

24 ASSEMBLYMAN THIELE: I'm not

1 challenging their integrity, I'm challenging  
2 the system that's been set up. That's all.

3 The last thing I just wanted to ask  
4 about was -- it was also mentioned -- were  
5 these tourism signs. I live in a town where  
6 I was the town attorney where we went to the  
7 United States Supreme Court to defend an  
8 amortization statute to take down large  
9 unsightly billboards because we're trying to  
10 sell the aesthetics of our community.

11 In Montauk -- which by the way,  
12 Montauk, the bumper sticker says "Montauk:  
13 The End, Not the Beginning." And for some  
14 reason, at the intersection of two two-lane  
15 highways, eight gigantic billboards appeared  
16 one day. And seven of them got taken down.  
17 There was no consultation with the local town  
18 supervisor there or any local government  
19 officials or the Chamber of Commerce or  
20 anyone else. Subsequently we find out that  
21 there's some problems with these signs with  
22 the federal government.

23 Could you update us as to what the  
24 status is of the negotiations with the



1 federal government on these billboards?

2 COMMISSIONER ZEMSKY: I really can't.  
3 I don't know what the status of the  
4 negotiations are with the federal government  
5 on the billboards. And I think I answered  
6 the question earlier, we were involved  
7 potentially in some of the design work for  
8 the signs, but I couldn't tell you about sign  
9 placement.

10 ASSEMBLYMAN THIELE: I didn't ask  
11 about sign placement, I asked you about the  
12 negotiations with the federal government.

13 COMMISSIONER ZEMSKY: Yeah. Well, if  
14 ESD was involved in negotiating with the  
15 federal government, I'd be able to tell you.  
16 But we're not.

17 ASSEMBLYMAN THIELE: Okay, thank you.

18 COMMISSIONER ZEMSKY: Thank you.

19 CHAIRWOMAN YOUNG: Thank you.

20 Our next speaker is Senator Rich  
21 Funke, who is chair of the standing committee  
22 in the Senate on tourism.

23 SENATOR FUNKE: Good morning,  
24 Commissioner. Thanks for being here. How's

1           it going so far?

2                   COMMISSIONER ZEMSKY:   Going good.  I'm  
3           wide awake.

4                   (Laughter.)

5                   SENATOR FUNKE:   Good.  Couple of  
6           tourism-related questions and then one on  
7           photonics in our region.

8                   You know, as you know, one out of four  
9           jobs is tourism-related in the State of  
10          New York.  It's our fourth-largest employer.  
11          And we appreciate the Governor's commitment  
12          to tourism, except his slide presentation  
13          indicated \$70 million going to be applied to  
14          tourism this year.  In your remarks, you said  
15          \$55 million.

16                  And I'm wondering where the disparity  
17          is and if there is a list of projects and  
18          events and promotions lined out in the budget  
19          that we could all take a look at.

20                  COMMISSIONER ZEMSKY:  You know, I'd  
21          have to go through the budget line item too.

22                  I know -- what I can tell you is  
23          tourism spending is proposed to be a bit  
24          higher this year than it was last year.  And

1           so that's true, I think, for tourism  
2           advertising, I believe it's true for matching  
3           funds and for Market NY.

4                     So, you know, tourism -- what I can  
5           tell you is tourism continues to be a big  
6           focus of ours. We have over \$100 billion now  
7           of tourism spending -- I mean, of economic  
8           impact from tourism. It's now the fourth, by  
9           the way, largest employment sector of the  
10          economy. One in 12 people in New York State  
11          is employed in tourism, almost a million  
12          people in the sector. So, you know, we're  
13          not about to start to pull away from tourism  
14          investment and spending.

15                    SENATOR FUNKE: You mentioned the  
16          Market NY program, which is a great  
17          complement for tourism interests. But the  
18          real value, I think, in the industry is the  
19          matching grant program. That was increased a  
20          little bit last year. Do you think it should  
21          be increased this year?

22                    COMMISSIONER ZEMSKY: I believe we are  
23          holding it the same or increasing it.

24                    It's been a great program. We work

1 with every county in the state. Tourism has  
2 been a really strong sector of the economy.  
3 And, you know, I can get you more detail.  
4 There are so many ways that we spend money on  
5 tourism, you know, between events and  
6 advertising and promotion and matching funds  
7 and, you know, the explosion of digital media  
8 and the New York bus. And it goes on and on.  
9 We are promoting tourism in such a great way,  
10 and craft beverages promotion, and it goes  
11 on.

12 So tourism is going to be an  
13 important -- once again, I know it's an  
14 extremely important component of this year's  
15 budget. We have an amazing team at ESD that  
16 promotes tourism and I Love New York. And,  
17 you know, we love working with the partners  
18 around the state. And I'm confident that you  
19 won't see a decrease in tourism spending in  
20 this year's budget.

21 SENATOR FUNKE: On the economic  
22 development side, in Rochester specifically,  
23 the state has invested significant dollars in  
24 the Photonics Institute. It was announced

1 with great fanfare. The former vice  
2 president was there. I think a lot of us  
3 expected that there would be -- people would  
4 be flocking to Rochester to open businesses  
5 and so on.

6 We've had some starts and some stops.  
7 All of us are aware of Preet Bharara's  
8 investigation into the Buffalo Billion and  
9 SUNY Poly. You know, this is a project that  
10 also got support from the federal government.

11 So I'm wondering now, you know, where  
12 we are in terms of the Photonics Institute  
13 and how it's playing out in Rochester right  
14 now. We had Photonica, which was going to be  
15 a main anchor. We don't have Photonica  
16 anymore. And now the state has proposed a  
17 Photonics Venture Challenge, dumping another  
18 \$10 million into a competition to try to  
19 inspire these companies to come to Rochester,  
20 where in the beginning we really thought that  
21 this was a home run. What's the update?

22 COMMISSIONER ZEMSKY: Yup. So, you  
23 know, that's one of the projects where I  
24 think we've played a constructive role in

1 getting photonics back on track.

2           There's been a site that's been  
3 selected through a very open and transparent  
4 and thorough process, in the Eastman Business  
5 Park at ON. There's been money allocated to  
6 build out and equip the facility. We've been  
7 in touch with the Department of Defense.  
8 Everyone is on board with what we're doing,  
9 where we're doing it and how we're doing it.

10           So I think that project, while it was  
11 one of the -- I would describe it as one of  
12 the projects that was, you know, listing, is  
13 very much back on track. And I think we've  
14 hit some important milestones, and it's very  
15 much headed in the right direction.

16           There are times -- and again, we  
17 walked into a number of projects that were,  
18 you know, let's say up in the air that were  
19 connected to SUNY Poly. You know, there are  
20 going to be some instances, and there have  
21 been, where they weren't willing to move  
22 forward with us. Maybe too much time was  
23 taken. Maybe they found an alternative  
24 opportunity.

1                   And there are times, too, when ESD  
2                   engages in projects that -- and has to make a  
3                   determination whether it should go forward or  
4                   not. And we're better off identifying on the  
5                   front end what we don't think is necessarily  
6                   the right type of project for us to advance,  
7                   reserve that money, as the Governor has  
8                   always been willing to do, and apply it back  
9                   into the region with a more robust company.  
10                  And that case is the, you know, circumstance  
11                  that -- you know, the second part of your  
12                  question.

13                  So I think it's on track. I think  
14                  that industry has a great future. I think we  
15                  are actively in conversations with other  
16                  photonics businesses. And I think at the end  
17                  of the day we will have looked back and said,  
18                  you know, we made a good and responsible  
19                  decision. Even though it may have been  
20                  criticized or caused concern initially, I  
21                  think it will prove more successful over  
22                  time.

23                  SENATOR FUNKE: You wouldn't  
24                  characterize photonics as overpromising and

1 underdelivering yet.

2 COMMISSIONER ZEMSKY: Photonics? No.

3 I mean, I think -- not at all. I think --  
4 you know, when you think about your assets in  
5 the Finger Lakes and, you know, the amazing  
6 history of imaging and photonics and the  
7 opportunity that that has for the new economy  
8 where you think about your academic and  
9 research institutions, I think it's exactly  
10 the type of transformational type of  
11 industry. You're playing long ball when  
12 you're talking about these types of  
13 investments. I mean, here we are in Albany,  
14 we played long ball with nanosciences over  
15 many years. You've got a ton of counties in  
16 this area that have unemployment now below  
17 4 percent.

18 I mean, I think it's not an instant  
19 hit, but I think it's exactly the kind of  
20 investments that, boy, if I was in the  
21 Finger Lakes, it's what I would want to see,  
22 that type of play to your strength. That  
23 plays to our -- not only the legacy strength,  
24 but our research, our universities and our



1 cluster of industries. That's a very  
2 objective, analytical conclusion for  
3 Rochester. I mean, they have real strength  
4 in that.

5 SENATOR FUNKE: Thank you.

6 CHAIRWOMAN YOUNG: Thank you.

7 Chairman Farrell.

8 CHAIRMAN FARRELL: Thank you.

9 Assemblywoman Bichotte.

10 ASSEMBLYWOMAN BICHOTTE: Hello,  
11 Commissioner. Good to see you again.

12 COMMISSIONER ZEMSKY: Hi.

13 ASSEMBLYWOMAN BICHOTTE: As you know,  
14 I am the chair of the Oversight Subcommittee  
15 for the Minority and Women-Owned Business  
16 Enterprises. So my questions will surround  
17 the MWBE program.

18 And I have three questions, one  
19 regarding the disparity study, the mentor  
20 protege program, and as well as the agencies  
21 in compliance to the utilization  
22 requirements.

23 As you know, Article 15A of the  
24 Executive Law is the participation by

1 minority group members and women with respect  
2 to state contracts. That will expire  
3 December 31st of this year, 2017. So this  
4 statute also provides the framework for the  
5 MWBE certification and procurement program  
6 and establishes targeted goals for sourcing  
7 of services and commodities by certified MWBE  
8 businesses.

9 Now, as we know, we are undergoing a  
10 disparity study which will justify to extend  
11 the program. The question is, what is the  
12 status of the disparity study? Why is it  
13 taking so long to complete? Will we the  
14 legislators expect to receive the study any  
15 time soon? Will there be an extension?  
16 That's my first question. I'm going to ask  
17 all of my questions at the same time.

18 COMMISSIONER ZEMSKY: Okay.

19 ASSEMBLYWOMAN BICHOTTE: The next  
20 question around mentor/protege, I know there  
21 was a launch where big companies will be  
22 mentoring smaller companies and so forth. I  
23 did put in a proposal in a new bill where we  
24 should conduct a feasibility study on all the

1 agencies to mimic a program very similar of  
2 the MTA, Minority and Women-Owned Business  
3 Enterprises Mentorship Capacity Program, as  
4 well as the SCA. I know that also requires  
5 to change the statute.

6 But I think the capacity programs by  
7 each of the agencies -- if we do a study, we  
8 can then see what kind of real programs we  
9 can have available for the MWBEs, not only in  
10 the construction field but also in the  
11 professional services as well as the goods  
12 and services and standard services.

13 And then lastly, I wanted to ask what  
14 is the percentage of agencies that aren't in  
15 compliance with the utilization requirements  
16 in the agencies. One of the things that we  
17 also would like the ESD to report on is a  
18 more detailed level of who are getting the  
19 contracts. Right now it's very high level.  
20 We would like to see the ethnic backgrounds  
21 of the groups to be more detailed -- by  
22 African-Americans, Asian-Americans, women,  
23 Hispanic-Americans. We also, in that same  
24 frame, would like to see it broken down by

1 prime contractors, subcontractors, what type  
2 of contract values, is it large or small, by  
3 agencies.

4 So these are some of the things that  
5 we are proposing in the budget on a  
6 legislative level, and I would like to hear  
7 your feedback. So the three things were  
8 disparity, mentor/protege versus mentor  
9 capacity program, and the utilization  
10 requirement reporting.

11 COMMISSIONER ZEMSKY: Okay. We've  
12 gotten an extension to mid-2017 on the  
13 disparity study. So we applied for and  
14 received -- we're working with the OSC and,  
15 you know, that study has been extended.

16 I think there was maybe a sense early  
17 on that that study was more robust,  
18 considerably more robust. There's been a lot  
19 more outreach, a lot more participation in  
20 all the regions of the state for that study.  
21 I think from the early days of my  
22 involvement, pretty early days of my  
23 involvement with ESD, there's been talk about  
24 that study really being more complicated.

1                   So I think it's moving. I think it  
2                   had a very ambitious original schedule.  
3                   Because I have the sense, in talking to  
4                   people, that there was -- you know, I think  
5                   people had a sense that it was going to  
6                   require an extension, and it has. So it's  
7                   been received but it's-- that work is, you  
8                   know, ongoing.

9                   ASSEMBLYWOMAN BICHOTTE: And so  
10                   mid-2017 would be summer or --

11                   COMMISSIONER ZEMSKY: Yes, June.

12                   ASSEMBLYWOMAN BICHOTTE: June, okay.

13                   COMMISSIONER ZEMSKY: So your second  
14                   part of your question related to --

15                   ASSEMBLYWOMAN BICHOTTE: The  
16                   mentor/protege, how is it doing now, versus a  
17                   capacity program very similar to MTA, doing a  
18                   feasibility study.

19                   COMMISSIONER ZEMSKY: Right. I mean,  
20                   we have very active -- for MWBEs we have very  
21                   active programs. I think that has been one  
22                   of our most successful programs. You know,  
23                   not only are we --

24                   ASSEMBLYWOMAN BICHOTTE: Like how

1 many? Is there a lot of participation? How  
2 many small businesses are participating?

3 COMMISSIONER ZEMSKY: Hold on. There  
4 is a lot of participation, actually. I'm not  
5 going to be able to call it up. I think we  
6 have maybe 5,000 users, 1700 mentor-mentee  
7 matches have been made. So I think that's a  
8 significant number.

9 ASSEMBLYWOMAN BICHOTTE: Seventeen  
10 hundred matches, okay. And 5,000 users,  
11 okay.

12 COMMISSIONER ZEMSKY: So we'll get  
13 back to you with more detail, but that's my  
14 notes to myself. We have a lot going on.

15 ASSEMBLYWOMAN BICHOTTE: And the  
16 agencies having a capacity program like MTA,  
17 doing a feasibility study?

18 COMMISSIONER ZEMSKY: Have what?

19 ASSEMBLYWOMAN BICHOTTE: How about the  
20 thought about the state agencies having a  
21 capacity program, doing a feasibility study  
22 to see what kind of program -- like real  
23 capacity training, thorough programs, eight  
24 months, whatever. Very similar to the MTA.

1           On different levels -- construction,  
2           professional services, goods and services.  
3           For example, let's say OGS has a capacity  
4           program for professional services or goods  
5           and services. We would like to see a  
6           feasibility study done throughout the state  
7           agencies to see what kind of programs  
8           in-house can be put in place to increase the  
9           participation of minority and women-owned  
10          business enterprises.

11                    COMMISSIONER ZEMSKY: Okay. I mean,  
12           we are actively involved with a number of  
13           different industries. We do have a lot of  
14           programs across different industries for  
15           mentoring and business boot camps and other  
16           types of programs to build capacity for these  
17           companies. But we can certainly look into  
18           other studies.

19                    ASSEMBLYWOMAN BICHOTTE: And the last  
20           one was the reporting. We certainly want  
21           more detailed reporting to see where is the  
22           participation doing well and where they're  
23           not doing well. And we would need to see the  
24           breakdown of -- you know, by ethnic groups,

1 again, what kind of values, contract values.

2 COMMISSIONER ZEMSKY: There are laws  
3 we follow, obviously, on these types of  
4 reporting and what we can and can't provide  
5 as a matter of law or as a practical matter.

6 ASSEMBLYWOMAN BICHOTTE: Well, New  
7 York City is doing it. They have like a  
8 scorecard for each of those little boxes. So  
9 it's something that we should really  
10 consider. That way we can really see how our  
11 actions are doing in terms of their  
12 utilization requirements.

13 COMMISSIONER ZEMSKY: Okay.

14 ASSEMBLYWOMAN BICHOTTE: Okay? Thank  
15 you.

16 CHAIRMAN FARRELL: Thank you.

17 CHAIRWOMAN YOUNG: Our next speaker is  
18 Senator Liz Krueger.

19 SENATOR KRUEGER: Good morning,  
20 Howard.

21 COMMISSIONER ZEMSKY: Hi.

22 SENATOR KRUEGER: Happy National Hijab  
23 Day to you.

24 So at risk of offending you again, the



1 Regional Economic Development Council plans  
2 that you keep pointing to, they might be good  
3 plans, but the data shows we're not getting  
4 success. When you look at the Bureau of  
5 Labor statistics data for the last five years  
6 in the various regions of New York State, the  
7 regions that you're talking about having been  
8 so -- the results are so amazing and you're  
9 so happy, they have a far lower increase in  
10 employment than not only the rest of the  
11 state or the rest of the country, but even  
12 the neighboring states around the region.

13 So why should we all be so excited  
14 about the outcome of the REDC model when  
15 there isn't data that backs up that they're  
16 creating jobs or economic success?

17 COMMISSIONER ZEMSKY: Well, I mean, I  
18 think there is a lot of data that backs it  
19 up. And I think every one of these reports  
20 shows you the incredible increase in  
21 employment and the incredible decrease in  
22 unemployment.

23 SENATOR KRUEGER: Can I ask you to  
24 speak up a little? For some reason I'm

1           having trouble hearing.

2                   COMMISSIONER ZEMSKY:  Yeah, sorry.

3                   Yeah, there's a lot of data that backs  
4           up the incredible progress that's been made  
5           in many of the regions.  So every region,  
6           obviously, has come a very long way from  
7           where it was.  And many of the regions of the  
8           state were in awful shape not that many years  
9           ago.  I mean, I don't know if people were --  
10          found it offensive for the 20 years prior to  
11          REDC or not, because we just kind of went  
12          downhill for 30 years in a row.  It must not  
13          have had anybody really upset about that at  
14          the time.

15                   So the fact that you have regional  
16          reports that not only are plans, but they  
17          highlight the progress that you're referring  
18          to, or disputing in great detail -- I'd  
19          recommend really reviewing those, because  
20          there's a tremendous amount of detail on the  
21          really dramatic improvements to the economy  
22          in every region of the state.

23                   SENATOR KRUEGER:  So you would suggest  
24          that if I were to review those reports, I

1           would find charts in them that show this is  
2           how much New York State spent on a project,  
3           this is how many jobs we created, this is how  
4           much tax revenue we gave up as part of the  
5           deal?

6                        COMMISSIONER ZEMSKY: I would suggest  
7           that we have an incredible amount of data,  
8           both in this report and on our website, on  
9           all of the projects -- now 5,000 of them,  
10          over the years -- that have been supported,  
11          yes.

12                       SENATOR KRUEGER: Well, I would  
13          suggest that I struggle every year in hopes  
14          that when looking at all these reports I  
15          really can come away saying, Oh, the State of  
16          New York spent this much money, we got this  
17          many jobs, so the cost per job was -- and  
18          that included both grants but also the loss  
19          of tax revenue. Because of course in  
20          economic development, a huge percentage of  
21          the cost, so to speak, is the lost revenue  
22          because we give people tax-free programs.

23                        So I would love a report that showed  
24          that across programs.

1                   COMMISSIONER ZEMSKY:  Yup.  Well, the  
2                   vast majority of the job programs are easily  
3                   tracked through the Excelsior program or the  
4                   economic development grants.  So we publish  
5                   those really quite often, even quarterly.

6                   And then there are a lot of projects  
7                   that we support through the REDC that aren't  
8                   technically job programs.  So for example,  
9                   your colleague Assemblyman Schimminger  
10                  highlighted several projects that he was very  
11                  pleased -- and I couldn't agree more -- to  
12                  see got funding.

13                  For example, the Niagara Street  
14                  Gateway in the City of Buffalo that goes up  
15                  to Tonawanda.  The City of Tonawanda, at  
16                  Niagara River and Ellicott Creek, will expand  
17                  public access and dock facilities allowing  
18                  residents and visitors to take advantage of  
19                  city's waterfront.  Well, there's a perfect  
20                  project that deserves support, and his  
21                  support, which it has.

22                  It's very hard for me to tell you what  
23                  the job creation is by creating a place that  
24                  people want to live and work and activating

1 the waterfront. That's been a big part of  
2 the turnaround in Buffalo.

3 There's projects on workforce  
4 development and welding. We need welders in  
5 Western New York. The manufacturing economy  
6 is short on people with these types of  
7 skills. I think that's really important.  
8 There's a lot of projects we do in a  
9 holistic, sensible way that's laid out in  
10 these plans. Some of them are very direct  
11 job-creating projects; others just create the  
12 environment or create the workforce that  
13 allow the economy to grow.

14 All those numbers are kind of grouped  
15 together in how is our economy doing, and our  
16 economy in New York is doing well. Our  
17 economy in most every upstate region is --  
18 they're all doing a lot better than they were  
19 not that many years ago. And I think we are  
20 demonstrating great progress in the metrics.

21 SENATOR KRUEGER: I'm going to cut you  
22 off because I have a few more questions.

23 We sat through, earlier in the week, a  
24 hearing where the localities, municipalities,

1           counties, towns, were begging us for  
2           infrastructure money. And I would argue  
3           actually if somebody wanted to improve their  
4           waterfront for tourism or the value of a  
5           community, we'd be better off just giving  
6           them the infrastructure money that they're  
7           asking for rather than defining it this way.

8                         Given all of the criticisms of the  
9           corruption scandals involved with projects  
10          correlated to economic development, would you  
11          not support the call for Comptroller  
12          oversight of all of your projects?

13                        COMMISSIONER ZEMSKY: I mean, when you  
14          say all of the allegations of corruption of  
15          economic development projects, we have 5,000  
16          economic development projects. You're  
17          talking about a very, very, very small few.  
18          And none of them relate to ESD.

19                        And you know, we are, I think, in a  
20          really good position right now to advance a  
21          lot of these projects in a way that, you  
22          know, finds the right balance -- and I assume  
23          you're referring to SUNY Poly -- between  
24          getting the projects done and really having

1 the transformative impact that was intended.

2 SENATOR KRUEGER: And why would  
3 Comptroller's oversight be a problem for any  
4 of that?

5 COMMISSIONER ZEMSKY: And why what?

6 SENATOR KRUEGER: Why would allowing  
7 the Comptroller to have more concrete  
8 oversight over this cause you a problem?

9 COMMISSIONER ZEMSKY: I mean,  
10 truthfully, all of these projects go through  
11 PACB. They all get reviewed. This is an  
12 independent not-for-profit. So we are -- you  
13 know, we have adopted so many changes to the  
14 bylaws, open meeting laws, codes of conduct.  
15 There's so many positive changes to the  
16 transparency. I think we have found a good  
17 balance between maintaining independent  
18 not-for-profit status and dramatically  
19 enhancing the transparency.

20 SENATOR KRUEGER: The Comptroller  
21 could only help in this process.

22 How much in clawbacks have you gotten  
23 over the last five years for deals that were  
24 done where they did not deliver on their

1 commitments?

2 COMMISSIONER ZEMSKY: Can you say it  
3 again? How many clawbacks have we gotten  
4 from what?

5 SENATOR KRUEGER: How much money did  
6 you get in clawbacks over the last five years  
7 for deals that did not deliver on the  
8 commitments that they made?

9 COMMISSIONER ZEMSKY: You know, the  
10 vast majority make it. And we'd have to get  
11 back to you. I don't know if there's a  
12 project you're interested in particularly or  
13 just in general.

14 Most of the economic development  
15 projects don't get -- they're pay for  
16 performance. So, you know, the Excelsior tax  
17 credit program, you have to have demonstrated  
18 the employment before you get the tax credit.  
19 It's not like you get it all up-front and  
20 then five years later you claw it back.

21 So it's typically structured in a way  
22 that you don't get the credit unless you've  
23 met your obligation.

24 SENATOR KRUEGER: Just in closing, did



1           you get the \$28 million back from the Utica  
2           deal that fell through?

3                    COMMISSIONER ZEMSKY: Did we get \$28  
4           million back?

5                    SENATOR KRUEGER: The state spent  
6           \$28 million on the chip factory that then  
7           pulled out of the deal in Utica. Are we  
8           getting that \$28 million back?

9                    COMMISSIONER ZEMSKY: Well, that money  
10          wasn't given to the chip company, it's for  
11          the infrastructure that will be used for the  
12          next chip fab. It didn't go to the company,  
13          so I can't claw it back from the company.

14                   SENATOR KRUEGER: Can you just repeat,  
15          what was it used for?

16                   COMMISSIONER ZEMSKY: For developing  
17          the infrastructure. Remember, the  
18          investments in these projects are in the  
19          public domain. So the infrastructure and the  
20          building remains in the public domain. It's  
21          owned publicly, in essence.

22                   So the money didn't go to AMS.  
23          There's nothing to get back from them. They  
24          invested money in the, you know,

1 consideration --

2 SENATOR KRUEGER: So it was just its  
3 own cost that now can't be gotten back or  
4 used?

5 COMMISSIONER ZEMSKY: No, it will be  
6 used. We're continuing to make investment in  
7 the infrastructure so that we actually reduce  
8 the amount of time it will take from the time  
9 the next company is interested in putting a  
10 chip fab in and the time it takes to actually  
11 construct it. So that will position us even  
12 better in Utica for that industry. So the  
13 money isn't gone. In fact, it remains as an  
14 asset for us to attract other fabs.

15 SENATOR KRUEGER: Thank you.

16 CHAIRWOMAN YOUNG: Thank you.

17 We've been joined by Senator Leroy  
18 Comrie and Senator James Sanders.

19 Chairman Farrell.

20 CHAIRMAN FARRELL: We've been joined  
21 by Assemblyman Weprin.

22 Next to question, Assemblyman Walter.

23 ASSEMBLYMAN WALTER: Thank you,  
24 Chairman.

1                   Thanks, Commissioner. I just want to  
2                   take off on what Senator Krueger was talking  
3                   about there as far as oversight.

4                   It was reported that almost a half a  
5                   million dollar contract between Governor  
6                   Cuomo and Bart Schwartz was never approved by  
7                   the State Comptroller. Can you explain,  
8                   after the scandals that reached into the  
9                   Governor's inner circle regarding some of  
10                  these bid-rigging issues, does Mr. Schwartz  
11                  continue to have a role in the oversight of  
12                  the projects now that ESD is in charge? Is  
13                  that an appropriate role for somebody that  
14                  doesn't have a formal position with the state  
15                  government to have? And why wouldn't we want  
16                  an independently elected official -- like the  
17                  Comptroller or the Attorney General or  
18                  both -- conducting oversight of these  
19                  projects, rather than somebody from the  
20                  outside that has no accountability to the  
21                  public?

22                  COMMISSIONER ZEMSKY: My best  
23                  understanding is the contract wasn't with  
24                  Empire State Development, so I can't speak to

1           what contractual relationship he had with the  
2           state or not.

3                         We worked a lot with Bart Schwartz and  
4           his office on procurement guidelines and  
5           payment requests and -- spent months working  
6           together, actually. So he issued a lot of  
7           guidelines. We've adopted the guidelines.  
8           We don't work with him any longer, but it was  
9           a productive several-month relationship.

10                        And I think, you know, it's really --  
11           the whole process and procedure is working  
12           well.

13                        ASSEMBLYMAN WALTER: So there's no  
14           continued oversight by Mr. Schwartz's office?

15                        COMMISSIONER ZEMSKY: Not that I'm  
16           aware of. We've adopted the guidelines. We  
17           worked together for months, and I don't --  
18           I'm not aware of any continuing relationship.  
19           But I'm not the definitive words on that.

20                        ASSEMBLYMAN WALTER: Do you think that  
21           the independently elected Comptroller or  
22           Attorney General has no role to play here as  
23           far as oversight of ESD, especially  
24           considering what's happened?

1                   COMMISSIONER ZEMSKY: You know, every  
2                   time we draw down any funds for any of these  
3                   projects, all of these invoices, the  
4                   thousands of pages, all of requisitions, it  
5                   all goes to PACB. So there's an active role  
6                   every step along the way.

7                   And, you know, I'm not interested in  
8                   being part of something that isn't well  
9                   vetted or transparent. And I don't think any  
10                  of us are. So it has a lot of active  
11                  participation from OSC.

12                  ASSEMBLYMAN WALTER: Regarding the  
13                  Buffalo Billion Phase 2, despite what the  
14                  Buffalo News editorial board may think, I  
15                  think I can speak for all of my colleagues  
16                  from Western New York that we're excited that  
17                  the Governor is continuing his investment  
18                  into Buffalo and Western New York.

19                  Now, this proposed investment of  
20                  another \$500 million -- is that correct?

21                  COMMISSIONER ZEMSKY: I think there's  
22                  \$400 million line-itemed in the budget and  
23                  another \$100 million from other agencies.

24                  ASSEMBLYMAN WALTER: When the Governor

1 did his regional State of the State  
2 addresses, he listed I think roughly 20  
3 different projects as part of that  
4 \$400 million. But that is not lined out in  
5 the budget. Is there a reason why there's  
6 not details in the budget regarding how he  
7 plans to spend that money?

8 COMMISSIONER ZEMSKY: I think the time  
9 frame was to give people a real sense of what  
10 are the priority impactful projects. But we  
11 don't have -- you know, it's been a pretty  
12 short time frame, and we don't have specific  
13 dollars for every single project.

14 So I think it relates to that. I  
15 think it's kind of a whole comprehensive --  
16 that's not any different than it was with  
17 Buffalo Billion 1. You know, sometimes you  
18 get into it, you spend a little bit more or  
19 you spend a little less or you learn  
20 something along the way.

21 But I think it gives people a real  
22 flavor of kind of the continuity of Buffalo  
23 Billion 1 and Buffalo Billion 2, and the  
24 focuses on workforce and revitalization and

1 innovation and, you know, trying to make some  
2 long-standing goals happen in Western  
3 New York. And I kind of refer to the transit  
4 study and sort of doing the SEQR for that.  
5 And that's the next step in that process.

6 I mean, you know, we're trying to  
7 build on the things that we have really seen  
8 succeed in Western New York. And, you know,  
9 you've been part of that, you see the  
10 innovation economy, you see the role UB plays  
11 in that, you see the incredible investments,  
12 transit-oriented development, waterfront  
13 activation. You know, all the  
14 entrepreneurship that's finally happening,  
15 we're trying to build on all that. Workforce  
16 development.

17 And then we're really trying to  
18 capture the east side of Buffalo in terms of  
19 capturing a big piece of the investment for  
20 the east side, build on some of the  
21 corridors, build on some of the historic  
22 assets, and really spread out the impact that  
23 it has had.

24 ASSEMBLYMAN WALTER: Regarding the

1 REDCs, you mentioned numerous times that they  
2 just serve in an advisory capacity. Well,  
3 where and who makes the final decision? And  
4 how often does the final decision not line up  
5 with what recommendations REDCs make?

6 COMMISSIONER ZEMSKY: It does happen.  
7 I don't know exactly with what percent, but  
8 it's not unusual. Every year, in every  
9 region, it happens.

10 And the ultimate decision gets -- you  
11 know, the state agencies weigh in and  
12 ultimately take into account the  
13 recommendations, and then we go from there.

14 ASSEMBLYMAN WALTER: So ultimately  
15 Empire State Development Corporation is  
16 making the final decision?

17 COMMISSIONER ZEMSKY: Yeah, we have  
18 definitely a role to play in the final  
19 decisions. But it's really, you know, most  
20 heavily impacted by the state agencies.

21 CHAIRWOMAN YOUNG: Thank you.

22 Our next speaker is Senator Kennedy.

23 SENATOR KENNEDY: Thank you very much,  
24 Commissioner. Always great to see you. And



1           thank you for your work. You are all over  
2           this state, and you bring a tremendous amount  
3           of knowledge at a very detailed level to this  
4           meeting. Thank you very much for your  
5           service.

6                     I want to elaborate a little bit more  
7           on the Buffalo Billion. Obviously the focus  
8           is on economic development, job creation from  
9           the transportation, tourism, and even  
10          education. Can you speak to the Say Yes to  
11          Education commitment that is being made  
12          through this initiative?

13                    COMMISSIONER ZEMSKY: Well, we've  
14          committed I believe \$10 million to say Yes to  
15          Education.

16                    You know, the most significant  
17          pipeline for our future workforce in Western  
18          New York is the Buffalo public schools. And,  
19          you know, Say Yes to Education is an amazing  
20          program. It gives people a fabulous  
21          opportunity. We are proud to support it. I  
22          know you've supported Say Yes to Education in  
23          a big way.

24                    You know, good economic development

1 really gives everyone an opportunity. When  
2 we talk about workforce initiatives as a  
3 significant part of Buffalo Billion 2, we  
4 thought of Say Yes to Education as a great  
5 opportunity for the region to give people --  
6 you know, focused particularly in the city --  
7 the opportunity to further their education  
8 and take advantage of the economic  
9 opportunity that's happening that, you know,  
10 wasn't happening for so long.

11 SENATOR KENNEDY: It's a big state  
12 with many diverse issues that you're dealing  
13 with. I can speak to Buffalo and the  
14 renaissance that's happening in Buffalo  
15 personally, as a Buffalonian, and as someone  
16 that represents the City of Buffalo and  
17 Western New York.

18 So to your point regarding the REDC  
19 initiative, the START-UP initiative, the  
20 Buffalo Billion commitment, it seems to me  
21 that this is working, at least in our region.  
22 And I would argue that to your point as well,  
23 from the data that I've seen, that it is  
24 working in other areas specifically focused

1 on upstate New York.

2 Can you talk a little bit more about  
3 this Buffalo Billion commitment and what it  
4 means to the momentum that's already been  
5 created?

6 COMMISSIONER ZEMSKY: Yeah. I mean,  
7 we, first of all, couldn't be more excited  
8 for the opportunity. Obviously, Western  
9 New York is -- you know, you don't have to  
10 live there to know how dramatically different  
11 the environment is there, how many kids are  
12 coming back and how many are staying. I  
13 mean, it's sort of the acid test, I think.  
14 The whole upstate region lost such a  
15 disproportionate share of young people over  
16 so many years. I mean, we lost population in  
17 all the upstate regions, but we lost a  
18 disproportionate share of people 20 to 40.  
19 So seeing that turn around I think is the  
20 acid test that we've turned the corner.

21 But what we've seen work -- as you  
22 know, we've had this amazing success on  
23 innovation. The 43 North business plan  
24 competition, the largest business plan

1 competition in the country now, has been so  
2 impactful. So continuing that for five more  
3 years.

4 We're so successful with START-UP and  
5 early-stage companies now. We've run out of  
6 innovation space and incubator space.  
7 Putting in a world-class accelerator helped  
8 these companies continue to grow. You know,  
9 creating opportunity for everyone by focusing  
10 on investments that are accessible to people.

11 That's why I'm so excited about the  
12 light rail expansion. You know, we sprawled  
13 out all over Western New York, and we made it  
14 more and more difficult for people without  
15 cars or people from lower incomes and lower  
16 education to get to employment. This has  
17 been a very purposeful strategy of, you know,  
18 Buffalo since 2011, and it was embedded in  
19 the Buffalo Billion plan.

20 So extending public transportation,  
21 giving people the opportunity to get to work  
22 in Amherst. Continuing to develop  
23 transit-oriented development, activating the  
24 waterfront further, the river, the outer

1 harbor, the inner harbor -- all these things  
2 that really drive so many decisions as to  
3 where to live and work if you are one of  
4 those 20-to-40-year-olds.

5 And so continuing to do that,  
6 continuing to invest in the workforce, all  
7 these -- continuing to invest in tradable  
8 sectors of the economy, those sectors that  
9 play to our strength in life sciences and  
10 tourism and manufacturing. I mean, I think  
11 we have the ideal circumstance. We have a  
12 model, I think, for the state and for the  
13 country in terms of how to actually intervene  
14 and impact dramatically the trajectory of the  
15 economy.

16 And I think -- you live there, you've  
17 got kids, it means a ton to you personally.  
18 Because, look, my kids are all in their mid  
19 and late 20s. Ten years ago, they were in  
20 high school. Every one of them would have  
21 told you, I'm going to go to college and I'm  
22 not coming back. Now I got two back and one  
23 to go. And that's a story that's repeated  
24 all over Western New York.

1                   SENATOR KENNEDY: I want to touch on  
2                   two quick things. I'm going to be mindful of  
3                   time. With the Buffalo Billion initiative, I  
4                   also represent the City of Lackawanna and  
5                   Town of Cheektowaga. The City of Lackawanna,  
6                   there is a great investment planned for the  
7                   Bethlehem Steel site -- a thousand-acre site,  
8                   deeply troubled with the industrial past.  
9                   But there is a new reality that we're looking  
10                  at with the potential for a new parkland.

11                  If you could comment on that as well  
12                  as the badly needed funding for the zombie  
13                  property disaster that has occurred not only  
14                  statewide, but specifically in our community  
15                  upstate, how this funding will target the  
16                  zombie properties in the Town of Cheektowaga.

17                  COMMISSIONER ZEMSKY: Yeah. So  
18                  Lackawanna, you've got the Bethlehem Steel  
19                  site. In many ways it's a perfect industrial  
20                  site because you've got multi-modal  
21                  transportation and you've got literally  
22                  hundreds of acres -- thousands.

23                  You know, look at what happened at  
24                  RiverBend, the old Republic Steel site.

1 Let's take a page out of that book. You had  
2 Republic Steel that is now -- you know, an  
3 old, closed brownfield site, remediated; you  
4 know, 21st-century industry there now.

5           There are only so many of these types  
6 of sites that are so big that you can do a  
7 megaproject. And what we don't want to do is  
8 what we used to do, which was the greenfield  
9 sites spread and sprawled all over. We take  
10 up agricultural lands, we extend sewers  
11 everywhere. We have the infrastructure in  
12 Lackawanna. We have the proximity. And  
13 let's find a repurpose for it. I think  
14 that's part of our driving strategy that  
15 worked at RiverBend, and it's in a spot where  
16 people can get to work.

17           And then, look, the zombie -- we're  
18 going to work with HCR on the zombie  
19 properties and we're going to put some money  
20 to it. So we've got to really figure out the  
21 detailed strategy of that. But this whole  
22 notion of these neighborhoods just stay  
23 abandoned and/or boarded up and you cannot  
24 get control of the property, I think we can

1 work with the banks and get control of those  
2 properties and make something happen. I  
3 think that's an important piece of the plan.

4 CHAIRWOMAN YOUNG: Thank you.

5 CHAIRMAN FARRELL: We've been joined  
6 by Assemblyman Pretlow.

7 And next to present, Assemblywoman  
8 Glick.

9 ASSEMBLYWOMAN GLICK: Sorry, I needed  
10 to get to a mic that worked.

11 I was very pleased to hear you refer  
12 to our colleges and universities as key  
13 assets for the state. They are publicly  
14 owned facilities. Over the last many years,  
15 we've had a fairly decent amount of what is  
16 referred to as critical maintenance capital  
17 investment. That keeps our aging facilities  
18 that may need a new HVAC or new piping,  
19 because it's leaking, or doors are falling  
20 off -- so it's really just putting Band-Aids  
21 on older facilities.

22 There really hasn't been a consistent  
23 five-year capital plan so that new facilities  
24 that might encourage, within what was



1           START-UP and is now rebranded as Excelsior --  
2           that might provide a better platform for new  
3           companies to come into those areas. And  
4           while the big university centers do very  
5           well, there are a lot of smaller towns  
6           throughout upstate that are struggling.  
7           Those towns that have a SUNY are clearly in a  
8           better position than those that don't. And  
9           those towns help the general area.

10                    This budget does not include any  
11           movement on real capital investment other  
12           than the critical maintenance to keep the  
13           places running, but no significant -- and  
14           some of those -- there's well over a billion,  
15           probably closer to \$3 billion worth of  
16           projects that are planned or envisioned, but  
17           no dollars.

18                    What is your view of why this budget  
19           does not provide, since you're running  
20           Excelsior and supporting that, why wouldn't  
21           we want to invest in existing state assets  
22           that are clearly, from your point of view,  
23           important for upstate's future?

24                    COMMISSIONER ZEMSKY: Yeah, and I

1           wouldn't be able to speak with great detail  
2           or authority on the education budget. I'm  
3           not -- you know, that's another hearing.

4                         But we do have, you know, important  
5           relationships with our colleges and  
6           universities. As you point out, you know,  
7           probably skewed at times, from an economic  
8           development standpoint, to the research  
9           universities where there's a lot of  
10          innovation and partnerships with business.

11                        You know, we're working with a lot of  
12          these towns you talk about. You know,  
13          Jamestown, we're working on downtown  
14          investments. We have downtown investments in  
15          Oswego, other college towns. You know, I can  
16          speak, you know, to how important the  
17          colleges and universities are. I can speak,  
18          you know, to the economic impact they have in  
19          Western New York. It's a multi-billion-  
20          dollar economic impact. When we did a  
21          strategic plan in Western New York, we had  
22          four or five things that we said we're going  
23          to hang our hat on this, and of course one of  
24          them was the colleges and universities. You

1 think about the way they impact -- you know,  
2 I can't tell you how many companies are  
3 looking to expand or relocate. And what do  
4 they want? They want a labor market  
5 assessment. They want to know what the  
6 colleges and universities are training for.  
7 They want to know where they're going to get  
8 people in finance and human resources and  
9 technical skills and engineering and  
10 management and laborers and all those skills.  
11 So it's important.

12 ASSEMBLYWOMAN GLICK: Well, if I could  
13 just follow up for one split second, I  
14 understand that you're not overseeing the  
15 higher ed budget. But since the colleges are  
16 so key to plans that you're doing, I would  
17 urge you to think about the kinds of  
18 investment -- I've always seen our colleges  
19 and universities as economic development  
20 potential. And yet even though that is the  
21 mantra, the actual dollars do not show up at  
22 what are our own state-owned facilities, our  
23 own state-owned assets.

24 And I would urge some redirection,

1           some rethinking. It's very concerning. I  
2           mean, the major university centers, there are  
3           four, but we have a lot of smaller ones --  
4           schools in Utica, schools in Delhi, schools  
5           in the Plattsburgh area. Those are key  
6           locations and important to those regions.

7                        So I would hope that you would  
8           consider talking to the Governor about the  
9           use of some economic development dollars to  
10          assist those assets.

11                      COMMISSIONER ZEMSKY: I mean, we do,  
12          through the REDC, fund a lot of projects that  
13          connect to colleges and universities.  
14          Sometimes it's workforce development  
15          projects, oftentimes connected to community  
16          colleges. And sometimes not community  
17          colleges. We invest oftentimes in research  
18          programs that they're doing. Maybe it's  
19          connected to life sciences or material  
20          sciences or, you know, other projects like  
21          that.

22                      Obviously, through some of these SUNY  
23          Poly projects, we're connected very closely  
24          to nanosciences --

1                   CHAIRMAN FARRELL: Thank you.

2                   COMMISSIONER ZEMSKY: -- and things of  
3 that nature. So we're integrated in with  
4 START-UP, we're integrated in with the REDCs  
5 through workforce development. We support a  
6 lot of university projects and research. You  
7 know, it's not just public, public and  
8 private. Some of it is, you know, data  
9 sciences, cybersecurity, photonics. You  
10 know, 21st-century industries that are  
11 connected to colleges and universities do get  
12 support through REDCs.

13                   CHAIRMAN FARRELL: Thank you.

14                   CHAIRWOMAN YOUNG: Thank you.

15                   Senator Tom Croci.

16                   SENATOR CROCI: Thank you.

17                   Good morning, Commissioner. How are  
18 you?

19                   Commissioner, in 2016, in July,  
20 Comptroller DiNapoli's report came out. In  
21 response, Brandon Muir, the executive  
22 director of Reclaim New York, which is a  
23 nonpartisan advocacy group focused on keeping  
24 businesses and people here, said that because

1 the results prove the failed strategy, the  
2 report's release was delayed.

3 In addition, Ron Deutsch, the  
4 executive director of the Fiscal Policy  
5 Institute, a think tank in Manhattan and  
6 Albany, concurred, saying "START-UP NY has  
7 spent tens of millions of dollars on  
8 advertising and only created an anemic number  
9 of jobs." "I don't think we can consider  
10 this a success by any measure," he said.

11 More concerning to me is when the  
12 Comptroller's report came out -- and this  
13 seems to be a trend now in these budget  
14 hearings as we bring in commissioners -- one  
15 of the lines in the Comptroller's report said  
16 that the auditing -- when doing the auditing  
17 of the Excelsior Jobs Program in July 2016,  
18 ESD withheld information and restricted  
19 access to program staff and necessary  
20 information. And the Comptroller concluded  
21 that these actions created an intentional  
22 interference with transparency and  
23 accountability.

24 And those of us who have been in these

1           hearings the last few days are confronting  
2           now commissioners who have to respond to the  
3           Comptroller's terms. And these terms of  
4           transparency and accountability are alarming.

5                         So my question, both in this aspect  
6           and for the other commissioners, has been  
7           what are we doing going forward to improve  
8           transparency and public accountability?

9                         COMMISSIONER ZEMSKY: We have  
10          responded to all of the Comptroller's  
11          reports. I obviously strongly disagree with  
12          those opinions. I think there's too much  
13          dependence on opinion and not enough  
14          dependence on fact.

15                        I think we run an amazing agency. I  
16          think there are times when they ask for  
17          things and if we don't have it, they conclude  
18          we are just not giving it to them. I don't  
19          think that's reasonable. They have done an  
20          audit of the Excelsior for over a year. They  
21          couldn't find a single instance where we made  
22          a payment that we shouldn't have, yet they  
23          concluded that we were somehow, you know, in  
24          error or doing something wrong.

1           My biggest disappointment -- I've been  
2           in this job for two years. My biggest  
3           disappointment has been the relationship with  
4           the Comptroller's office and the conclusions  
5           that they reach and the way their audits are  
6           done. I hope to improve that. I can't  
7           guarantee it.

8           But ESD conducts itself in a way --  
9           and has people who do an amazing job. And  
10          that is not properly recognized or captured  
11          or reflected in any of the Comptroller  
12          reports.

13          So I respectfully disagree. We have  
14          responded to all of their conclusions with  
15          our own statements. You can find those on  
16          the record. And we stand by those. But I  
17          sure hope, over time -- because those reports  
18          believe the fact that we actually work  
19          constructively with the Comptroller's office  
20          almost day in and day out and week in and  
21          week out to advance projects. And why every  
22          single report has to be so negative in a way  
23          that, to me, is not accurate, is something I  
24          can't explain.



1                   SENATOR CROCI: This is a growing  
2 theme, though, that we continue to see  
3 commissioners who are -- their agencies are  
4 being audited, and this -- the transparency  
5 and accountability theme keeps coming back  
6 and back and back every time we have these  
7 conversations.

8                   I want to touch on something else  
9 before we're out of time. You repeatedly  
10 said about the Regional Economic Development  
11 Councils that they have no statutory  
12 responsibility or authority. Interesting  
13 that if we were to say the president of the  
14 United States -- any president, any party --  
15 were to come to the United States Congress  
16 and say "I want a pot of money, I want to be  
17 able to appoint all of people who spend that  
18 money, and there's going to be no statutory  
19 authority or responsibility, no financial  
20 disclosures, no ethics disclosures for the  
21 individuals who are spending that money,"  
22 what do you think the United States Congress  
23 would tell that executive?

24                   Well, I'll answer that question. It's

1 lunacy.

2 My colleagues have well represented  
3 our concerns -- not about how this is done as  
4 far as getting local officials and leaders of  
5 communities together to determine what  
6 projects are most stimulative to their local  
7 economy, but the individuals who are making  
8 these determinations.

9 Sir, who makes the final determination  
10 on an REDC project? Who does the final pick?

11 COMMISSIONER ZEMSKY: Who does what?

12 SENATOR CROCI: Who makes the final  
13 pick on an REDC project? I'm not talking  
14 about the scoring that's done at the local  
15 level. When it comes up to this town, who  
16 makes the final pick?

17 COMMISSIONER ZEMSKY: Most primarily,  
18 the agencies make the final pick. That's the  
19 overwhelming -- and then we --

20 SENATOR CROCI: Executive branch  
21 agencies.

22 COMMISSIONER ZEMSKY: The state  
23 agencies.

24 SENATOR CROCI: That are controlled by

1 the executive branch.

2 COMMISSIONER ZEMSKY: That are what?

3 SENATOR CROCI: A state agency  
4 controlled by the executive -- an executive  
5 branch agency. The department of  
6 Transportation, et cetera. Commissioners  
7 appointed by the Governor; correct?

8 COMMISSIONER ZEMSKY: The  
9 commissioners appointed by the executive  
10 branch and confirmed by the legislative  
11 branch and -- I mean, I feel like I'm  
12 speaking -- since I can, you know, represent  
13 ESD, I feel like we work very collaboratively  
14 with legislators across the State of New  
15 York. We're in every one of these regions,  
16 we're responsive, we're really helping to  
17 make economic development happen. There are  
18 times we step in and intercede and try to  
19 help companies to grow, or we've been  
20 involved in keeping companies from closing.  
21 We've served as a broker to, you know,  
22 troubled companies to try and find buyers so  
23 we don't lose jobs. We've advanced broadband  
24 over the state. We're advancing economic

1 development strategies all over the state.

2 You know, I feel like --

3 SENATOR CROCI: I understand, sir,  
4 that you're working hard and your team is  
5 working hard. And no one questions your work  
6 ethic or your motivations in helping the  
7 State of New York.

8 What I'm saying is the economic  
9 policies have failed. It's pretty clear that  
10 if you're picking and choosing sectors of an  
11 economy, if you're picking and choosing  
12 winners in an economy, ultimately you're  
13 going to have the kind of anemic growth that  
14 has been reported.

15 COMMISSIONER ZEMSKY: Look, I'm just a  
16 business guy. You know, I'm not a  
17 politician. I don't really get the whole  
18 value of saying something is failing when  
19 it's been an amazing success. So I can't  
20 explain that. I understand you feel that  
21 way. I couldn't disagree more. I think most  
22 of the regions couldn't disagree more. We've  
23 probably talked about this now through nine  
24 different questions and answers. I could

1 keep talking about it. I'm not going to get  
2 upset again about, you know, REDCs. I think  
3 we have great plans. I think we do a great  
4 job.

5 You know, why we call success failure  
6 is a mystery to me. I'm just trying to help.  
7 And I think all these regional councils, and  
8 I think everyone here, you know, is  
9 interested in economic development. And I  
10 don't think we should call success failure.  
11 That's my opinion.

12 SENATOR CROCI: Okay. Well, thank  
13 you. Appreciate your testimony here today.

14 CHAIRWOMAN YOUNG: Thank you.

15 CHAIRMAN FARRELL: Thank you.

16 Assemblywoman Jenne.

17 ASSEMBLYWOMAN JENNE: Thank you,  
18 Mr. Chairman.

19 Good morning, Commissioner. It's  
20 still morning for a little bit of time, so --  
21 you may feel like you've been there forever,  
22 but it's only been a couple of hours.

23 I'd like to start by echoing some of  
24 my colleagues' concerns. I'm similarly

1           bewildered at why we would spend over  
2           \$50 million on brand I.D. and then go ahead  
3           and change the name. That certainly concerns  
4           me. And if, you know, we are still  
5           contending that this is a successful program,  
6           albeit one that's probably far more of a  
7           long-term strategy for success, I don't know  
8           why we would go ahead and abandon a name that  
9           we spent so much time and money on bringing  
10          awareness to, not only in this state but in  
11          this nation and likely a global reach as  
12          well.

13                        So that concerns me, and I think that  
14           maybe we should rethink that. Because you'll  
15           just have to spend as much money, probably,  
16           getting people to understand which program  
17           they want to apply for for the benefits that  
18           the program has.

19                        You mentioned in earlier testimony  
20           today that the refining and refocusing of the  
21           program, that that was led by suggestions  
22           from apparently very long discussions with  
23           businesses that are already in the program.  
24           Was that correct?

1                   COMMISSIONER ZEMSKY: Yes. In part it  
2 was formed by that, yes.

3                   ASSEMBLYWOMAN JENNE: Okay. I'm just  
4 wondering what parts of the refine and  
5 refocus effort were the result of legislative  
6 input. You and I have talked about this  
7 program in hearings in the past. I've made  
8 suggestions about perhaps looking at some of  
9 our SUNY schools that we know should be the  
10 cornerstone of economic activity in our  
11 regions, and look at projects that they have  
12 proposed, such as the accelerator at SUNY  
13 Canton and a film production type of  
14 facilitator at SUNY Potsdam.

15                   I don't see any of that really  
16 traceable in the budget, that we would make  
17 that type of investment in our SUNY system so  
18 that then they could actually work with  
19 start-ups in our region. Were any of those  
20 suggestions taken into account in this  
21 refining and refocusing effort?

22                   COMMISSIONER ZEMSKY: Yeah, I mean, we  
23 have -- we're organizing ourselves at ESD  
24 around, you know, the innovation opportunity

1 through the new -- newly restructured  
2 business program and assets and people that  
3 we have at ESD and SUNY.

4 So yes, we are -- I think we're going  
5 to be bringing to the table people who  
6 have -- and, in fact, some people from UB who  
7 I think have really lived this program in a  
8 way that represents a great model, and we're  
9 going to bring those assets and resources --

10 ASSEMBLYWOMAN JENNE: Yeah, we would  
11 just like funding for that model in other  
12 parts of the state other than just Western  
13 New York, as we were asking for these things  
14 that seem to align with what your  
15 programmatic goals are, but we seem to be  
16 stymied in actually getting that support to  
17 get down to our individual communities.

18 I would just also point out that there  
19 were other suggestions made at the hearing on  
20 this program, and many of them went to  
21 transparency. And so my take-away, I guess,  
22 from the refining and refocusing and changing  
23 of this program in statute is that we asked  
24 for more transparency and the accommodation



1 we got was further secrecy. And so I guess  
2 that seems to be what the Governor envisions  
3 our role to be, as even less in these  
4 programs.

5 Turning to the regional councils,  
6 which have been a huge topic of discussion  
7 here this morning as well, I am wondering how  
8 many actual new jobs we can concretely say  
9 have been created. Of the 210,000, I'm sure  
10 a bunch of them are retained, which I mean  
11 that was, I think, a change in the program,  
12 because we had many businesses waiting to go  
13 under. And so early on, retention was not  
14 allowed as -- you know, those projects  
15 weren't allowed to be funded under the  
16 regional councils. So a couple of years into  
17 it, we finally got retention of the  
18 cornerstones of our regional economies to be  
19 considered.

20 But, you know, when we talk about  
21 creation, we know the START-UP NY jobs,  
22 there's commitments for jobs; I'm just  
23 wondering how many we've actually created  
24 versus have commitments to create or retain.

1 Do you have a number?

2 COMMISSIONER ZEMSKY: Yeah, about  
3 20 percent.

4 ASSEMBLYWOMAN JENNE: About 20  
5 percent.

6 COMMISSIONER ZEMSKY: Twenty percent,  
7 about.

8 ASSEMBLYWOMAN JENNE: Okay, thank you.

9 Also the program is to be funded at  
10 \$750 million. Is that just the discrete part  
11 of the competition that deals with economic  
12 development, or is that the total number for  
13 all the other pots of grant funding that come  
14 through other means? It might be  
15 pass-throughs from the federal government or  
16 that we as a legislature fund under different  
17 agencies. But we've created this  
18 consolidated form? Does the \$750 million  
19 include all of those other agencies that  
20 money is doled out through this process, or  
21 is it just your economic development  
22 programs?

23 COMMISSIONER ZEMSKY: It includes some  
24 funds from other state agencies.

1 ASSEMBLYWOMAN JENNE: Okay. So what  
2 portion of the \$750 million is strictly your  
3 agency for economic development, not for  
4 other tourism or community development? You  
5 mentioned one of those projects in  
6 Mr. Schimminger's district that had to do  
7 with something that was more aesthetic and  
8 probably more what the Department of State  
9 does -- waterfront revitalization and access  
10 to the water. That wasn't your program, was  
11 it, that funded that? Was it --

12 COMMISSIONER ZEMSKY: It was REDC.  
13 ESD is about \$150 million.

14 ASSEMBLYWOMAN JENNE: A hundred and  
15 fifty million, okay.

16 CHAIRMAN FARRELL: Thank you.

17 ASSEMBLYWOMAN JENNE: Thank you.

18 CHAIRWOMAN YOUNG: Thank you.

19 Our next speaker is Senator Savino.

20 SENATOR SAVINO: Thank you, Senator  
21 Young.

22 Thank you, Commissioner.

23 I'm just going to focus on two parts  
24 of the budget. We were very pleased to see,

1 in the Executive Budget, the Governor's  
2 commitment to the Buy American proposal.  
3 We're big supporters of it. And I'm a member  
4 of the Independent Democratic Conference.  
5 We're also committed to the idea of not just  
6 buy American but buy New York products.

7 One of the things that we have seen,  
8 though, is the difficulty of maintaining  
9 manufacturing here in New York State, and  
10 we've made some proposals about making it  
11 easier to retain manufacturers, including  
12 property tax exemptions. What are your  
13 thoughts about making it easier to retain  
14 manufacturing and incentivize manufacturers  
15 to stay in New York State?

16 COMMISSIONER ZEMSKY: Yeah, I mean I  
17 think by reducing the tax rate to  
18 manufacturers to zero, we've tried to create  
19 a very positive environment for  
20 manufacturing. That's a focus for many of  
21 our regions, a tradable sector in  
22 manufacturing. They have different  
23 strengths, different regions have different  
24 strengths within manufacturing. But, you

1 know, it's a very -- it's a high priority.

2 SENATOR SAVINO: Thank you.

3 Secondly, on the MWBE program, we know  
4 that one of the state's commitments is to, I  
5 think, get it up to 30 percent of contracting  
6 in the state.

7 Last year I was the chair of the  
8 Senate's Banking Committee and I did a  
9 hearing alongside Assemblywoman Bichotte, who  
10 was with me, to focus on the lack of access  
11 to capital and credit for MWBEs. Because  
12 that's one of the reasons why many of the  
13 MWBEs are not able to compete. Even the  
14 entity that was set up to lend to MWBEs, the  
15 New York Banking Development Corporation, is  
16 not meeting its stated goals.

17 Coincidentally, the Senate Labor  
18 Committee held a hearing on prompt payment in  
19 the construction industry and its effect on  
20 MWBEs, which are oftentimes subcontractors.  
21 And it turns out that the worst payers -- it  
22 turns out to be the state. You're laughing,  
23 because you know the cases.

24 COMMISSIONER ZEMSKY: Sorry.

1                   SENATOR SAVINO:  So it's almost as if  
2                   our own policies are getting in the way of  
3                   our stated commitments.

4                   So I would hope that -- you know,  
5                   you're probably one of the smartest people  
6                   involved in this state.  If you could look  
7                   into this and help us solve this problem of  
8                   access to capital and credit for the MWBEs,  
9                   it would go a long way towards helping us  
10                  achieve that stated goal of 30 percent of  
11                  state contracts.  And also put some pressure  
12                  on the state agencies, whether it's DOT or  
13                  the MTA, which is not a state -- well, it's a  
14                  quasi-state agency -- to solve that problem  
15                  of prompt payment.  That will then really  
16                  help these MWBEs.  Because once they get a  
17                  contract, they wind up becoming delisted or  
18                  debarred because, through no fault of their  
19                  own, they are not getting money.  Then they  
20                  can't meet payroll and they don't maintain  
21                  their certification, and it's just like  
22                  they're going around in circles.  So I would  
23                  hope that you would help us with that.

24                  COMMISSIONER ZEMSKY:  Sure.

1                   SENATOR SAVINO: And at that point,  
2 I'm done. Thank you.

3                   COMMISSIONER ZEMSKY: Okay. Let me  
4 just -- I can follow up with you some more  
5 and get you some more statistics on it, but  
6 we do have a number of small business access  
7 to capital programs that have been very  
8 successful. And I want to recognize the  
9 agency for doing those capital access  
10 programs -- surety bond assistance, small  
11 business revolving loans, Bridge to  
12 Success -- helping MWBE firms really in so  
13 many different ways.

14                   I think these programs are almost  
15 fully subscribed. They are very active. And  
16 the nice thing about the revolving loan fund  
17 is that it continues to replenish itself and  
18 help. The surety bond helps MWBEs with  
19 contracting projects. The access to capital  
20 program, \$8 million against loan loss  
21 reserves to, you know, put out microloans and  
22 small business loans. Which we've had a huge  
23 impact on over 1600 loans in that program  
24 alone, \$53 million of lending.

1           So small business is a big focus of  
2           ours also. We do have several very active  
3           loan programs and access to capital programs.  
4           And we can provide, you know, more detail on  
5           those. But they're a very active part of  
6           what we do.

7           SENATOR SAVINO: I'd appreciate that.  
8           Because half the battle is knowing where to  
9           look.

10          COMMISSIONER ZEMSKY: Exactly. And we  
11          have so many of them. And they're, you know,  
12          firing on all cylinders that you should know  
13          about them. They're good programs.

14          SENATOR SAVINO: Thank you.

15          CHAIRWOMAN YOUNG: Thank you.

16          CHAIRMAN FARRELL: Assemblyman  
17          Bronson.

18          ASSEMBLYMAN BRONSON: Good morning,  
19          Commissioner. Thank you for being here.

20          COMMISSIONER ZEMSKY: Thank you.

21          ASSEMBLYMAN BRONSON: A couple of  
22          things. First of all, let's talk about the  
23          \$4.6 billion expended over the last six  
24          years. And you indicated that 210,000 jobs





1           were created, the 42,000 -- that doesn't  
2           include construction jobs --

3                    COMMISSIONER ZEMSKY: Right.

4                    ASSEMBLYMAN BRONSON: -- were they all  
5           permanent jobs?

6                    COMMISSIONER ZEMSKY: Yes. Permanent  
7           jobs, full-time jobs, yeah.

8                    ASSEMBLYMAN BRONSON: Okay. And of  
9           that number, are those positions still filled  
10          today, the 42,000?

11                   COMMISSIONER ZEMSKY: Well, there's a  
12          lot more positions now filled, frankly,  
13          because the economy has grown so much. But I  
14          can't -- of course, I cannot --

15                    ASSEMBLYMAN BRONSON: Sir, only --

16                    COMMISSIONER ZEMSKY: I cannot  
17          speak -- of course, as you know, I cannot  
18          speak to every single job and if it's still  
19          filled or if there's more jobs than they  
20          expected or fewer jobs than they expected  
21          over time. Because they compete, and some  
22          companies succeed and some companies don't.  
23          If you look back over five years --

24                    ASSEMBLYMAN BRONSON: I understand --

1           sir, I understand that dynamic.

2                   COMMISSIONER ZEMSKY: Well, so that's  
3 the reality.

4                   ASSEMBLYMAN BRONSON: But you've made  
5 the claim that it --

6                   COMMISSIONER ZEMSKY: That's the  
7 reality of the economy.

8                   ASSEMBLYMAN BRONSON: I understand  
9 that dynamic.

10                   But you've made the claim that 42,000  
11 jobs were created. That's the 20 percent  
12 number. So if you know those jobs were  
13 created, the question then is -- you get  
14 reports from these companies. The question  
15 is, do you know if we still have 42,000  
16 people working in those jobs?

17                   COMMISSIONER ZEMSKY: Well, what I  
18 know is the vast majority of that is through  
19 tax credit programs that you don't get the  
20 tax credit unless you have the job. So when  
21 we spend the money, it's because you've  
22 created the job and the job exists.

23                   If you ask me five years later if the  
24 job, it's -- you know, it's impossible to

1           guarantee what the economy or what the  
2           company will do 10 and 15 years in the  
3           future.

4                   ASSEMBLYMAN BRONSON:  I -- I'm not  
5           asking --

6                   COMMISSIONER ZEMSKY:  But you put  
7           together the program -- sorry.  We put  
8           together the program, most of it is done, the  
9           vast majority, in a pay-for-performance mode.

10                   ASSEMBLYMAN BRONSON:  All right.  So  
11           I'm not asking you to look at 15 years from  
12           now.  I'm asking you to look at today.  And  
13           if you have tax credit reports, whenever they  
14           applied last time, then we should be able to  
15           get that number.

16                   COMMISSIONER ZEMSKY:  Yup.

17                   ASSEMBLYMAN BRONSON:  The second point  
18           you made, in answering other questions, was  
19           ESD is an independent nonprofit status.  With  
20           all due respect, I understand that.  But  
21           we're talking about \$4.6 billion of taxpayer  
22           dollars, whether you're talking tax credits  
23           or otherwise.  These are taxpayer dollars.  
24           And whether those dollars are flowing through

1 an independent nonprofit organization or  
2 they're flowing directly through a state  
3 agency, we owe it to our taxpayers to know  
4 how those dollars are being spent.

5 So I and many of my colleagues are  
6 interested in making sure that we have the  
7 sufficient transparency, the sufficient  
8 accountability, and the oversight on these  
9 dollars. So you don't need to answer that,  
10 that's just the position I'm stating.

11 As chair of the Commission on Skills  
12 Development and Career Education, I'd like to  
13 ask you a series of questions about the  
14 workforce development. Because ultimately,  
15 economic development is really about jobs for  
16 our families and jobs for our young people to  
17 stay here, which I think you agree with.

18 So without -- you answered the  
19 Senator's questions regarding Buffalo. I'd  
20 like to have you explain to us what workforce  
21 development is happening in the Rochester  
22 area, in particular in connection with  
23 photonics, to make sure that our urban youth  
24 are able to get into these jobs and other

1 folks are able to get into these jobs.

2 COMMISSIONER ZEMSKY: Yeah,  
3 Rochester -- and as you know, the head of  
4 Monroe Community College is now, you know,  
5 cochair of the Regional Council. They have a  
6 very large focus on workforce development.  
7 They have a very large focus on poverty  
8 reduction.

9 You know, I know there was a lot of  
10 funds allocated most recently from the URI to  
11 mentorship programs, to education programs,  
12 to workforce training programs. There is a  
13 very active council there. And we can go  
14 through their plan, but I think they've been  
15 very aggressive in funding workforce  
16 development initiatives.

17 So, boy, the way that council's  
18 structured now, with Anne Kress as the  
19 cochair, you can imagine there's going to be  
20 a, you know --

21 (Reaction as lights go out in hearing  
22 room.)

23 COMMISSIONER ZEMSKY: So much for  
24 transparency.

1 (Laughter.)

2 CHAIRMAN FARRELL: Open the doors back  
3 there.

4 (Lights come on in hearing room.)

5 UNIDENTIFIED SPEAKER: There we go.

6 CHAIRMAN FARRELL: Never mind.

7 (Laughter.)

8 COMMISSIONER ZEMSKY: So, you know, so  
9 let me say --

10 CHAIRMAN FARRELL: As you were saying.

11 COMMISSIONER ZEMSKY: Oh, sorry about  
12 that. I don't know what to make of that.  
13 Maybe there's a signal.

14 UNIDENTIFIED SPEAKER: Don't read  
15 anything into it.

16 ASSEMBLYMAN BRONSON: Well,  
17 Commissioner, you --

18 COMMISSIONER ZEMSKY: We couldn't  
19 agree more that workforce development is a,  
20 you know --

21 ASSEMBLYMAN BRONSON: My time is up.  
22 I would just ask you -- because ultimately  
23 economic development is about creating jobs,  
24 and ultimately there are populations in

1           geographical areas in this state that really  
2           need a lot more focus on making sure that the  
3           workforce development programs are closely  
4           aligned with whatever economic development we  
5           do. I know we're doing some of that in  
6           Rochester. I would just like to see our  
7           efforts be expanded in that regard.

8                     Thank you.

9                     COMMISSIONER ZEMSKY: Got it. I  
10           agree.

11                    CHAIRMAN FARRELL: Thank you.

12                    CHAIRWOMAN YOUNG: Thank you.

13                    Our next speaker is Senator Comrie.

14                    SENATOR COMRIE: Thank you, Madam  
15           Chair.

16                    Good afternoon, Mr. President {sic}.

17                    COMMISSIONER ZEMSKY: Hi.

18                    SENATOR COMRIE: I wanted to ask you a  
19           couple of questions about the airport  
20           redevelopment projects that the Governor has  
21           talked about and where are we on the timing  
22           for La Guardia and how that's progressing in  
23           terms of -- on scheduling and minority  
24           participation.



1                   And what is he doing in terms of  
2 Kennedy? Has there been any group that has  
3 been -- any effort or specific effort that  
4 has been put together since he made his  
5 announcement of revamping Kennedy Airport?

6                   COMMISSIONER ZEMSKY: Yeah, I think  
7 Kennedy -- La Guardia is under construction.  
8 I mean, I fly in there weekly, it's an active  
9 construction site.

10                   So Kennedy Airport was announced  
11 recently in terms of its upgrades. Any time  
12 there's a project like that, there's going to  
13 be -- I don't know exactly what the  
14 percentage MWBE goal is on that, but it's  
15 going to be significant.

16                   And, you know, that's -- we're not  
17 doing the airport renovations at ESD, but --

18                   SENATOR COMRIE: Oh, that's not going  
19 through ESD?

20                   COMMISSIONER ZEMSKY: -- but it's, you  
21 know, more -- a lot of the airport work is  
22 through the Port Authority and things of that  
23 nature.

24                   SENATOR COMRIE: Okay.

1                   But won't you be part of the  
2 monitoring of the MWBE for both projects?

3                   COMMISSIONER ZEMSKY: You know, we  
4 monitor MWBE across the state, so we have a  
5 role there.

6                   SENATOR COMRIE: All right. I just  
7 wanted to also second what my colleague  
8 Senator Savino said about the MWBE loan  
9 funding and making sure that that happens.  
10 And I would like to get an update on exactly  
11 where those loans went to and what groups  
12 have been involved in it and where do those  
13 seminars take place, so that we can inform my  
14 constituencies as well.

15                   COMMISSIONER ZEMSKY: Yeah, that's  
16 great. Yeah, we can do that.

17                   We've got -- and it's an ongoing  
18 program. I mean, we're providing training,  
19 we're providing mentoring, we're providing  
20 all types of programs on how to get state  
21 contracts, on how to be certified as an MWBE,  
22 how to get information on state contracts,  
23 things of that nature. So we're very active  
24 in the regions on that.

1                   SENATOR COMRIE: Well, I see that the  
2                   Governor was only calling for \$635,000 in the  
3                   Business Development and Lending Program, but  
4                   I've heard you say earlier that there are  
5                   other programs that MWBEs are involved in.  
6                   And I'd like to get the overall number of  
7                   money that's loaned out to MWBEs.

8                   And then my final question is, how  
9                   many minority prime contractors have been  
10                  developed under this program?

11                  COMMISSIONER ZEMSKY: Well, there  
12                  are -- I can't speak to that specifically. I  
13                  can tell you that we have added literally  
14                  thousands of MWBE-certified firms in recent  
15                  years. But I cannot speak to what number is  
16                  prime contractors. I don't have that.

17                  SENATOR COMRIE: But does your program  
18                  enable prime contractors to be established,  
19                  to be created? And how are you working to  
20                  develop the capacity for people that are  
21                  looking to be prime contractors?

22                  COMMISSIONER ZEMSKY: Yeah. Well, we  
23                  do have a lot of programs that are helping  
24                  MWBE firms with capacity, not only lending

1 but -- and not only mentoring, but capacity  
2 in terms of business building. So ...

3 SENATOR COMRIE: And are you working  
4 with the other financial institutions to  
5 increase the revolving loan fund through  
6 their participation as well, for the access  
7 to capital?

8 COMMISSIONER ZEMSKY: Yes, we deal  
9 with CDFIs all across the state, many of  
10 them, dozens of them.

11 SENATOR COMRIE: And can you give this  
12 committee a breakdown of who those banks are  
13 as well --

14 COMMISSIONER ZEMSKY: Sure.

15 SENATOR COMRIE: -- so we can know  
16 who's participating and what kind of vigor  
17 they are participating with in creating  
18 opportunities for people?

19 COMMISSIONER ZEMSKY: Absolutely.

20 SENATOR COMRIE: And then just my last  
21 question on the Jamaica -- the Governor has  
22 given us seed money to Downtown Jamaica  
23 Revitalization. And I would hope that we can  
24 get a full access to other opportunities to

1 have a larger discussion on what we need to  
2 do to fund the needs in the Jamaica area.

3 As you know, it's a transportation  
4 hub, it's a central business location, it's a  
5 real opportunity with over nine hotels being  
6 built in the next two years that are going in  
7 down there for some real economic  
8 development. And I hope that the seed money  
9 that the Governor has proposed there would be  
10 followed up quickly by some real economic  
11 opportunities.

12 COMMISSIONER ZEMSKY: Yup.

13 SENATOR COMRIE: Thank you.

14 COMMISSIONER ZEMSKY: Thank you.

15 SENATOR COMRIE: Thank you, Madam

16 Chair.

17 CHAIRWOMAN YOUNG: Thank you, Senator.

18 CHAIRMAN FARRELL: Thank you.

19 Assemblywoman Woerner.

20 ASSEMBLYWOMAN WOERNER: Thank you,

21 Mr. Chairman.

22 Thank you, Mr. Zemsky.

23 I have two areas I'd like to talk to  
24 you about. One is the Global 450 Consortium

1 at SUNY NanoCollege. I know this was a  
2 program that was designed to end in 2016.

3 COMMISSIONER ZEMSKY: Yup.

4 ASSEMBLYWOMAN WOERNER: The innovation  
5 that -- the industry's adoption of the  
6 450 nanometer technology has not kept up with  
7 the innovations, so it makes some sense that  
8 the consortium would be disbanded. On the  
9 other hand, it is a key aspect to nurturing  
10 the innovation in that industry, and to  
11 continuing upstate New York's centrality in  
12 the industry, that that kind of a consortium  
13 remain, that public/private partnership.

14 So my question for you is given the  
15 sunseting of the Global 450 Consortium, what  
16 is ESD's -- and in your capacity now  
17 overseeing the SUNY CSNE programs, what is  
18 your strategy or intent to continue to foster  
19 that industry in upstate New York?

20 COMMISSIONER ZEMSKY: We have first  
21 tried to stabilize the myriad of projects  
22 that were in varying degrees of disarray, for  
23 starters. We have then reengaged with many  
24 of the partners that you're referring to.

1           And again, part of the money in the budget is  
2           to square up and make good on some of the  
3           state commitments that are out there.

4                     And simultaneously, we're working on  
5           the planning of what's next. So, you know,  
6           it might be different partners, it may -- you  
7           know, five years is a long time in the  
8           technology space.

9                     But I think it's important to note, as  
10          you did, that that program wasn't intended to  
11          be going on for 20 years. So it was a  
12          research program -- we are engaged with  
13          industry, we're actively speaking to other  
14          potential partners and projects, but at the  
15          same time we walked into a need to, you know,  
16          triage the patient and stabilize the base --  
17          and that's from the Schuyler projects to the  
18          Global 450 Consortium and some of those  
19          partners and other partners -- at the same  
20          time working on planning.

21                    We see that and I know the Governor  
22          sees that as a huge priority. And we've  
23          invested mightily in that industry. It's a  
24          real point of distinction for New York State.

1           How to leverage and continue to leverage the  
2           relationships and the industry contacts that  
3           have been built up over so many years, how to  
4           maintain a point of distinction in the  
5           industry, I think is very important to the  
6           go-forward opportunity in front of New York.

7                         So we're taking it very seriously.  
8           But we're prioritizing things also, and  
9           that's what you're seeing in part in the  
10          budget and the way we're engaged with the  
11          board and these myriad of different companies  
12          and at the same time planning, actively  
13          planning on the future. Things are busy.

14                        ASSEMBLYWOMAN WOERNER: Great. Thank  
15          you. I'm glad to hear that statement of  
16          support for the industry and for the  
17          continuing efforts to build New York's  
18          premier status in the industry.

19                        My second question has to do with the  
20          broadband program.

21                        COMMISSIONER ZEMSKY: Yup.

22                        ASSEMBLYWOMAN WOERNER: So we've spent  
23          about 10 percent -- Phase 1 was about  
24          10 percent of the total that was allocated.



1           What percentage of the unconnected households  
2           are now connected through the Phase 1 part of  
3           the project?

4                   COMMISSIONER ZEMSKY: Well, I think we  
5           added something like 35,000 households  
6           through Phase 1. We're going to add more  
7           shortly when we announce Phase 2. Every  
8           phase is going to be more costly than the  
9           prior phase, because we're getting to get  
10          into more and more remote areas. So first it  
11          was sort of the low-hanging fruit, and we're  
12          going to continue to kind of move out.

13                   By the end of the year we'll have --  
14          you know, in part because of the agreement  
15          that was made with the Time Warner/Charter  
16          merger, we will have 97 percent or something  
17          of the state covered. But we will have it  
18          all covered by the end of '18.

19                   ASSEMBLYWOMAN WOERNER: Forgive my  
20          skepticism.

21                   COMMISSIONER ZEMSKY: Okay.

22                   ASSEMBLYWOMAN WOERNER: The Time  
23          Warner/Charter merger was -- included a  
24          commitment for 145,000 households, something

1           like that. And so now you've got -- and  
2           we've got an additional 33 through Phase 1.  
3           That's 175 -- say 175,000. That seems like a  
4           pretty small percentage of the total  
5           unconnected households that we have to cover.

6                    COMMISSIONER ZEMSKY: I think --

7                    ASSEMBLYWOMAN WOERNER: And I take  
8           your point that it's only going to get more  
9           expensive from here.

10                   COMMISSIONER ZEMSKY: Yeah.

11                   ASSEMBLYWOMAN WOERNER: So is  
12           \$500 million a realistically feasible budget  
13           for this? I mean, it just seems --

14                   COMMISSIONER ZEMSKY: Well, we have  
15           that money. We have some money from this  
16           recent settlement with I think the FCC. And  
17           I think we will be able to do it. And I  
18           think -- you know, I've talked to our  
19           broadband people. They feel very optimistic.  
20           I -- you know, I walk around myself, you  
21           know, with a certain amount of skepticism  
22           about a lot of things, but in this case I'm  
23           not skeptical.

24                   I think they've made really good

1 progress. I think you're going to see an  
2 announcement on Phase 2 very soon, and then  
3 they're going to kick off Phase 3. And I  
4 think this program is on track.

5 ASSEMBLYWOMAN WOERNER: So when we are  
6 sitting here next February we're going to be  
7 able to say we're close to 100 percent?

8 COMMISSIONER ZEMSKY: Yes.

9 ASSEMBLYWOMAN WOERNER: Okay. Thank  
10 you.

11 COMMISSIONER ZEMSKY: I mean,  
12 certainly committed if not fully installed.  
13 But yeah, I mean -- I think, you know, we're  
14 on track. You know, there was a lot of  
15 people skeptical about the Second Avenue  
16 subway, but I was at a celebratory event  
17 there, so, you know --

18 ASSEMBLYWOMAN WOERNER: And that took,  
19 what, 20 years?

20 (Laughter.)

21 COMMISSIONER ZEMSKY: I think 100.

22 But not under this Governor.

23 So, I mean, I know this Governor well.

24 We're going to do what we said, and I think

1           it's on track. I think the team at broadband  
2           is doing a great job, and I think of all the  
3           things to be skeptical of, you should not  
4           worry too much about this one.

5                    ASSEMBLYWOMAN WOERNER: All right.  
6           I'm looking forward to our conversation next  
7           year, then.

8                    COMMISSIONER ZEMSKY: Okay.

9                    CHAIRMAN FARRELL: Thank you.

10                   CHAIRWOMAN YOUNG: Thank you.

11                   Senator James Sanders, please.

12                   SENATOR SANDERS: Thank you, Madam Chair.

13                   Good afternoon, sir.

14                   COMMISSIONER ZEMSKY: Hi.

15                   SENATOR SANDERS: Returning to MWBE,  
16           two questions. I'm sure you've been up here  
17           a long time.

18                   Are you concerned that the Governor's  
19           desire to extend the law that has to do with  
20           15A will have a negative impact on the  
21           disparity study itself?

22                   COMMISSIONER ZEMSKY: Do I think the  
23           Governor's desire to --

24                   SENATOR SANDERS: The Governor is

1 talking of extending the law over 15A.

2 COMMISSIONER ZEMSKY: Extending the  
3 law. Oh, I --

4 SENATOR SANDERS: But there is a  
5 disparity study that's taking place that is  
6 due.

7 COMMISSIONER ZEMSKY: Yes.

8 SENATOR SANDERS: If the law is  
9 extended and the disparity -- how will this  
10 impact the disparity study?

11 COMMISSIONER ZEMSKY: The disparity  
12 study's been extended to June. I don't think  
13 you will need to extend it again.

14 SENATOR SANDERS: Okay.

15 COMMISSIONER ZEMSKY: So I don't think  
16 those are connected.

17 SENATOR SANDERS: Okay. Then I stand  
18 corrected. I did it wrong, extending the  
19 disparity study. But the law may sunset.

20 COMMISSIONER ZEMSKY: No, I think it's  
21 designed in a way that the law will not  
22 sunset in a way that creates a void.

23 SENATOR SANDERS: Okay. As long as it  
24 does not create a void, that is a concern.

1 I'm interested also in the total  
2 amount of loans that are aimed at the MWBE  
3 community and what is the interest rate on  
4 these loans. You may not have that  
5 information at hand, but if you'd be kind  
6 enough to get that to me later.

7 COMMISSIONER ZEMSKY: Yup.  
8 Absolutely. We can do that.

9 They are intended to be very  
10 affordable loans. So, you know, that's part  
11 of the subsidization of them. We reduced the  
12 risk of the loan through the state money, and  
13 that allows the loan to be made, and at a  
14 favorable interest rate. So we'll get you  
15 that information.

16 SENATOR SANDERS: Yes. Now, New York  
17 City has 3 percent on some of its loans. I  
18 trust that the state can beat the city, I'm  
19 sure.

20 (Laughter.)

21 COMMISSIONER ZEMSKY: You're a tough  
22 negotiator. Three percent is pretty good.

23 SENATOR SANDERS: Well, we're the  
24 state. We will do better, I'm sure.

1 COMMISSIONER ZEMSKY: Okay.

2 SENATOR SANDERS: Thank you very much,  
3 sir.

4 Thank you, Madam Chair.

5 CHAIRWOMAN YOUNG: Thank you.  
6 Assembly?

7 CHAIRMAN FARRELL: Yes. Assemblyman  
8 Murray.

9 ASSEMBLYMAN MURRAY: Thank you,  
10 Mr. Chairman.

11 And Mr. Zemsky, thank you for being  
12 here.

13 I'd like to raise the issue of  
14 credibility. During your testimony today  
15 you've used terms such as "overpromised and  
16 underdelivered," "lousy reputation," "empty  
17 promises," and these were issues that you  
18 raised that maybe happened years ago, maybe  
19 decades ago, and said that maybe we're trying  
20 to change that reputation. But my question  
21 is, have we succeeded?

22 And my concern lies in issues like, a  
23 few years ago, we had the Empire Zones, where  
24 we were giving tax credits. Those Empire

1           Zones then changed to the Excelsior Jobs  
2           Program. We made promises to companies and  
3           said if you create this number of jobs,  
4           you'll get these tax credits. And we had  
5           companies that were participating in this,  
6           and then we deferred those tax credits -- in  
7           fact, in some cases up to three years at a  
8           time.

9                         Now, as a company -- as a small  
10           business owner myself, I can tell you that we  
11           plan. We don't just go by whims, we're  
12           planning and sometimes years in advance. So  
13           when they're saying we're going to create  
14           X number of jobs and we're now going to pay  
15           for those jobs based on us getting these tax  
16           credits, but the state turns around and  
17           defers those credits not one year, not two  
18           years, but in some cases three years, my  
19           question is do we know how many of these  
20           companies were affected on how much we  
21           deferred?

22                         COMMISSIONER ZEMSKY: I do not know  
23           offhand how much from the Empire Zone  
24           benefits were deferred.



1           ASSEMBLYMAN MURRAY: But can you see  
2 where this might be a credibility issue with  
3 some of these companies, and why we might be  
4 having a problem with this?

5           We also have the issue of -- we have  
6 the Excelsior Jobs Program, where there's a  
7 certain parameter in order to qualify. We  
8 now have START-UP NY, which is now going to  
9 be the Excelsior Business Program. Again, I  
10 can see where this could be quite confusing  
11 to companies as to which is which, especially  
12 since the Excelsior Business Program  
13 parameters are a bit lower than those with  
14 the Excelsior Jobs Program.

15           So there might be a bit of buyer's  
16 remorse, if you will, with companies  
17 participating in the Excelsior Jobs program.  
18 Would you agree?

19           COMMISSIONER ZEMSKY: Well, I think  
20 what they -- you know, really, it's a  
21 continuum. So they could start in the  
22 Excelsior Business Program and then really,  
23 as they grow over time, can enter the  
24 Excelsior Jobs Program. So I think it's a --

1           you know, potentially it's a pretty seamless  
2           segue for them. And it's intended to be that  
3           way.

4                   ASSEMBLYMAN MURRAY: Well, if the  
5           parameters are different, though, one being  
6           higher, one being lower -- and right now it's  
7           my understanding that the Excelsior Business  
8           Program has a little bit lower parameters as  
9           far as the number of jobs needed to create in  
10          order to benefit from the tax credits.

11                   COMMISSIONER ZEMSKY: Yeah. But if  
12          you can't create jobs and make investment  
13          because you're an early-stage, a really  
14          early-stage company, you can't really get any  
15          benefit out of the Excelsior Jobs Program.

16                   So it really -- it is to your  
17          advantage, as a formative-stage company, to  
18          have the Excelsior Business Program. And  
19          then as you get your footing and you develop  
20          your technology, you grow and you're adding  
21          an investment in jobs, and you would take  
22          advantage -- and so it would be, I think, a  
23          smooth transition. And they're complementary  
24          programs.

1           ASSEMBLYMAN MURRAY: Well, back to the  
2           credibility issue, would -- I'd like to get  
3           your opinion on that. Do we have a  
4           credibility problem based on our recent past?

5           COMMISSIONER ZEMSKY: I think we've  
6           gone a long way in -- you know, I'm not going  
7           to -- I'm probably getting worn out, but I'm  
8           not going to, you know, spend a ton of time  
9           talking about it.

10           My opinion is the State of New York is  
11           a much better place to do business than it  
12           was not that many years ago. I think -- we  
13           track perceptions of the State of New York.  
14           We know that businesses in the state and out  
15           of the state see, you know -- we see a  
16           dramatic improvement in perceptions that  
17           people have of the State of New York, and for  
18           good reason.

19           If you look at our infrastructure  
20           investment, if you look at the economic  
21           development, if you look at our colleges and  
22           universities, if you look at almost any  
23           metric in the knowledge economy, New York is  
24           well-positioned. And if you look at our tax

1 rates, if you look at our balanced budgets,  
2 if you look at the functionality of  
3 government, we're just in such a dramatically  
4 better place than we were.

5 It has a positive impact on the way  
6 people perceive the state, both in the state  
7 and out of the state. So I think our  
8 credibility has been enhanced quite a bit.

9 ASSEMBLYMAN MURRAY: I appreciate your  
10 optimism there.

11 I will just close by commenting on  
12 something you had stated earlier, and you  
13 said that you can understand why some of us  
14 are calling a failure what you are deeming a  
15 success. Well, when we get reports back and  
16 we're asking for progress reports and we get  
17 them late regarding the START-UP NY Program,  
18 when we finally do receive them, we hear  
19 numbers like START-UP NY creating more  
20 tax-free areas, at 441, than they actually  
21 created jobs, at 408, after spending roughly  
22 \$53 million in promotions, much of which is  
23 in-state.

24 We're using the information we're

1 getting from you, and that's where we're  
2 coming up with this. I don't know if I would  
3 go as far as to say a failure, but I  
4 certainly wouldn't call it a gleaming success  
5 by any stretch of the imagination to this  
6 point.

7 Thank you.

8 COMMISSIONER ZEMSKY: Thank you.

9 CHAIRMAN FARRELL: Thank you.

10 CHAIRWOMAN YOUNG: Thank you. My  
11 turn.

12 CHAIRMAN FARRELL: Yes.

13 (Laughter.)

14 CHAIRWOMAN YOUNG: Thank you,  
15 Mr. Chairman.

16 I think we only have myself and I  
17 think Senator Boyle wants to ask a couple  
18 more questions. But thank you, Mr. Zemsky,  
19 for all of your answers today. We truly  
20 appreciate it.

21 I just had a few questions. Under the  
22 Executive Budget proposal, there's  
23 \$207.5 million in capital money. And this is  
24 a new appropriation, I think it's termed the

1 Strategic Projects Program. And the language  
2 merely states that "the funds appropriated  
3 herein shall be used for services and  
4 expenses, loans, grants, related strategic  
5 economic development projects that create or  
6 retain jobs and support innovation." And as  
7 written, the use of the funds would be at the  
8 sole discretion of the Governor via Empire  
9 State Development.

10 So what project or projects would be  
11 included under this \$207.5 million  
12 appropriation?

13 COMMISSIONER ZEMSKY: So they are  
14 projects that connect back to SUNY Poly that  
15 we've already announced or are actively --  
16 active partnerships that we have.

17 CHAIRWOMAN YOUNG: So is there a list?

18 COMMISSIONER ZEMSKY: It's not, you  
19 know -- and then as we negotiate those, we'll  
20 bring them forward in a very transparent way.  
21 It will go through PACB. It's not for -- you  
22 know, it's to -- getting back to my  
23 conversation with Assemblymember Woerner,  
24 it's to square up, reestablish our

1           credibility with many of the existing  
2           projects and partnerships that we have at  
3           SUNY Poly.

4                   CHAIRWOMAN YOUNG:  Is there a list  
5           floating around of the projects?  Just  
6           because we'll have to vote, as the  
7           Legislature, on these projects when we pass  
8           the budget.  Is there information out there?

9                   COMMISSIONER ZEMSKY:  There isn't in  
10          amounts, because some of those are still  
11          under negotiation.  But they're, you know,  
12          some of the, you know, partners that exist at  
13          SUNY Poly now.  So ...

14                   CHAIRWOMAN YOUNG:  If there's any  
15          information that you can provide to us, I'm  
16          sure everyone would really appreciate it.

17                   The other question I have, I'm just  
18          trying, Howard, to understand how this new  
19          Excelsior Program would work.  And from what  
20          information I'm gathering, everything would  
21          be tax-free for a company that was  
22          participating, as it was for START-UP NY,  
23          correct?  So everything would be tax-free for  
24          a company that would be allowed into the

1 program?

2 COMMISSIONER ZEMSKY: Right.

3 CHAIRWOMAN YOUNG: Okay. So then on  
4 top of it, I think there's a new provision  
5 that actually would give a refundable tax  
6 credit to these companies. So not only would  
7 they be entirely tax-free, but then on top of  
8 it they would be paid to have their company  
9 in New York. Is that how that would work?

10 COMMISSIONER ZEMSKY: Yeah, over --  
11 they would --

12 CHAIRWOMAN YOUNG: I'm just trying to  
13 understand.

14 COMMISSIONER ZEMSKY: Yeah, so they  
15 would be able to -- they would qualify for  
16 the Excelsior Job Program as they grew.

17 So we would, you know, have a more  
18 narrow definition of the companies that  
19 entered the Excelsior Business Program, and  
20 then they would have the opportunity to  
21 participate in the Excelsior Job Program  
22 going forward.

23 CHAIRWOMAN YOUNG: Okay. Thank you.

24 I wanted to ask about the MWBE



1 program, because -- and there's been some  
2 discussion so far. But what I'm hearing from  
3 companies in our region is that in many cases  
4 there aren't enough MWBE qualified companies  
5 in upstate. And they're having a very  
6 difficult time, and in some cases are having  
7 to subcontract with another company. And all  
8 it is is that that company is making profit  
9 off of it -- I think it may add to the cost  
10 of a project -- just so that they can meet  
11 their requirement of this 30 percent MWBE  
12 mandate that we have in this state. That's  
13 number one.

14 Number two, oftentimes local  
15 companies -- just because we don't have a lot  
16 of MWBE companies in certain parts of the  
17 state, as I said, a lot of times local  
18 people, local companies are excluded from  
19 having those jobs that would be under these  
20 projects. So is there something that we can  
21 do to try to address that?

22 I think there's something similar to a  
23 waiver that may be given, but I'm hearing  
24 that it's very difficult to get that waiver.

1                   COMMISSIONER ZEMSKY: So we have  
2                   added, you know, several thousand MWBE firms.  
3                   And we are very active regionally, so we go  
4                   out into each of the regions and we know, for  
5                   example, both Western New York and the  
6                   North Country have had issues around this,  
7                   and so we've concentrated many of our efforts  
8                   in trying to educate and encourage MWBE  
9                   formation.

10                  And the balancing act between allowing  
11                  an MWBE -- I mean, we're one state. There  
12                  are, you know -- we encourage MWBEs from one  
13                  part of the state to participate in  
14                  opportunities if it makes sense for them in  
15                  other parts of the state. And  
16                  simultaneously, we try to increase the number  
17                  of MWBEs across the state.

18                  So, you know, I realize that there are  
19                  times when people feel like, hey, they're  
20                  from another region or another city. But  
21                  that's, you know, the program, and those are  
22                  the guidelines of the program and, you know,  
23                  we try to work within those.

24                  CHAIRWOMAN YOUNG: Right. But as you

1 know, in the Southern Tier people are  
2 struggling from an economic sense, and there  
3 are companies that employ people, the people  
4 need the jobs, and they're being shut out of  
5 the process. So if there's some way that we  
6 could look to address that issue, it'd be  
7 very helpful. Obviously, we want MWBEs and  
8 we want people to succeed. But at the same  
9 time, you know, the question is how do we  
10 address regions that need jobs desperately  
11 and they're not getting them. So that's one  
12 thing related to MWBE.

13 And I apologize if I might not have  
14 heard your answer on this, but there was a  
15 disparity report that was due in February of  
16 2016. Is that report completed?

17 COMMISSIONER ZEMSKY: Which report?

18 CHAIRWOMAN YOUNG: For MWBE. There  
19 was a disparity report that was required  
20 under statute, and it was supposed to have  
21 been completed by February of 2016. And I'm  
22 just wondering if that report is completed or  
23 not.

24 COMMISSIONER ZEMSKY: Yeah, I think

1           that's the disparity study that's been  
2           extended to 2017 -- I mean June of 2017.

3                   CHAIRWOMAN YOUNG: The information I  
4           have is 2016. But do you know what's in --  
5           if the study's being done and where it's at  
6           in the process?

7                   COMMISSIONER ZEMSKY: Are you talking  
8           about the disparity study?

9                   CHAIRWOMAN YOUNG: Yes.

10                   COMMISSIONER ZEMSKY: Tillman  
11           Associates is doing the disparity study. I  
12           believe they're based in California. They've  
13           been -- the state contracted with them.

14                   That study is delayed. It's way more  
15           extensive than the previous disparity study.  
16           And I think OSC just approved the contract  
17           extension till June of 2017.

18                   CHAIRWOMAN YOUNG: Okay, so we should  
19           be looking forward to information from the  
20           study --

21                   COMMISSIONER ZEMSKY: Yup.

22                   CHAIRWOMAN YOUNG: -- shortly?

23                   Thank you. Just switching gears to  
24           the Empire State Film Tax Credit, that's a

1           \$420 million annual tax credit. And the last  
2           information that I have is that the film jobs  
3           created in New York in 2013 and '14 were  
4           mostly in New York City, 84 percent.

5                     Do you have any stats about updated  
6           information and where some of these  
7           film-related jobs are across the state? Are  
8           there any upstate? I think there are some,  
9           but is there any kind of breakdown that we  
10          could have access to?

11                    COMMISSIONER ZEMSKY: Yeah, I can get  
12          you more detail. But, I mean, the film tax  
13          is concentrated downstate, but there's been a  
14          lot of growth in the mid-Hudson, in Albany,  
15          in Western New York in film production and  
16          post-production.

17                    The industry is booming in the State  
18          of New York. I mean, it's amazing. We've  
19          posted the most recent film industry study  
20          and, you know, for the last two years, '15,  
21          '16, we've got 70,000 jobs associated with  
22          the film industry. We've got \$12.5 billion  
23          in spending, and \$4.2 billion in earnings for  
24          workers.

1                   It's a big industry, it's grown, it's  
2                   doubled, and it's got a good return on  
3                   investment. And it's not -- obviously,  
4                   New York City is one of the leading film and  
5                   production locations in the world. But we  
6                   also know from all of our experience that  
7                   it's very sensitive to incentives. When we  
8                   increased the incentives, we grew the  
9                   business dramatically.

10                   The reason we're looking to extend it  
11                   is because companies make long-term  
12                   decisions. They have to know if we're going  
13                   to be in this business, if we're going to  
14                   maintain the incentive. It impacts the  
15                   decisions that they make today.

16                   So that's why, you know, we've seen a  
17                   great impact across the state. Yes, like  
18                   some industries are more focused in some  
19                   regions, and this is one, but there has been  
20                   a lot of growth in some other parts of the  
21                   state.

22                   CHAIRWOMAN YOUNG: So is there a way  
23                   that we market different locations to film  
24                   companies? And the reason I ask is that more

1 than 30 years ago *The Natural*, with Robert  
2 Redford, was filmed in South Dayton,  
3 New York, at the train depot, and also John  
4 Candy's *Planes, Trains, and Automobiles* was  
5 partially filmed there. So we haven't had  
6 much in the Southern Tier since then.

7 So I was just wondering, is there a  
8 way that the state markets different  
9 landmarks or potential filming sites?

10 COMMISSIONER ZEMSKY: Yeah, that's a  
11 good question. You know, we have a very  
12 active division of ESD on film, and I'll go  
13 back and see exactly how do we inform every  
14 potential film of what the different assets  
15 and shooting locations are.

16 You know, oftentimes they're looking  
17 for a certain period or a certain landscape  
18 or what have you, so -- you know, I don't  
19 want to overstate it, I think we do a good  
20 job of representing where the different  
21 opportunities are across the state. But I'll  
22 find out exactly how do we specifically  
23 market the Southern Tier, for example.

24 CHAIRWOMAN YOUNG: Thank you. The

1 other -- just two quick questions.

2 So the Governor is proposing the  
3 Buffalo Billion Squared, which would be  
4 another half a billion dollars. And you've  
5 spoken to members from the Buffalo region  
6 about a vision for Buffalo and some of the  
7 money -- as to some of the projects, how the  
8 money would be spent.

9 But how much would that be allocated  
10 to some of the outlying counties? So, for  
11 example, the Southern Tier. You know, I'm  
12 sure Senator Gallivan would be interested in  
13 Wyoming County, for example.

14 COMMISSIONER ZEMSKY: Right.

15 CHAIRWOMAN YOUNG: So how would that  
16 money be spent, and what would the breakdown  
17 be?

18 COMMISSIONER ZEMSKY: Yeah. So, I  
19 mean, the Buffalo Billion has been focused  
20 on, you know, trying to revitalize what was  
21 maybe the poorest city in the state. And the  
22 way the Regional Council has addressed the  
23 fact that Buffalo has had the extra funding  
24 is it has prioritized almost all of the



1 funding from the REDC process to other  
2 counties.

3 So, for example, Chautauqua County has  
4 gotten more funding in recent years than --  
5 through the REDC process, oftentimes, than  
6 any other county in the region, so -- and the  
7 DRI was a Jamestown project.

8 And, you know, as you know, there's a  
9 big focus on anything we can do to improve  
10 the economy in the Southern Tier. We work  
11 with you often on economic development  
12 opportunities. I saw a new flyer was coming  
13 to the Southern Tier, you know, Jamestown  
14 DRI, the hopefully repowering of the power  
15 plant, ultimately -- you know, on again, off  
16 again. Hopefully on again.

17 CHAIRWOMAN YOUNG: It's on again,  
18 Howard, so --

19 COMMISSIONER ZEMSKY: Hopefully on  
20 again.

21 CHAIRWOMAN YOUNG: -- we need your  
22 commitment from Empire State Development.

23 COMMISSIONER ZEMSKY: Absolutely.

24 So we -- you know, a lot of investment

1 in the Comedy Center, that's part of the  
2 Buffalo Billion, Phase 2. You know, that's  
3 been a big priority --

4 ASSEMBLYMAN PERRY: Excuse me, Madam  
5 Chair. Excuse me. Is there any way you  
6 could turn the sound up? Because the  
7 Commissioner is speaking very softly, and the  
8 sound isn't projecting.

9 CHAIRWOMAN YOUNG: Is it hard for you  
10 to hear, Nick?

11 COMMISSIONER ZEMSKY: Sorry.

12 CHAIRWOMAN YOUNG: Lean in, Howard.

13 COMMISSIONER ZEMSKY: Sorry about  
14 that.

15 Yeah, so we've prioritized REDC  
16 funding to counties like Chautauqua. We have  
17 of course worked hard as part of this  
18 transition from SUNY Poly to, you know,  
19 working with Phoenix. You know, the power  
20 plant project's been a big priority,  
21 Jamestown DRI. Chautauqua has really won  
22 more money through the REDC process than  
23 really almost any other county.

24 CHAIRWOMAN YOUNG: And we're -- you

1 know, obviously we're very, very excited and  
2 happy about that.

3 But obviously we need to do more work  
4 in the Southern Tier. We deal with rural  
5 poverty. And it's very difficult, for  
6 example, for somebody from Wellsville to  
7 drive to Dunkirk, which could be an hour and  
8 a half, two-hour drive each way, in order to  
9 have a job at a Phoenix.

10 So one of the issues that I brought  
11 forward to you and the Governor in the past  
12 is the New Forest Economy, and I'm hoping  
13 that we can get some more traction on this.  
14 So there's that.

15 I think -- just one more thing related  
16 to the power plant. The transition aid that  
17 we put in last year in the budget, the Senate  
18 put in \$30 million to help communities  
19 affected by closures of power plants. And  
20 the Empire State Development afterwards came  
21 up with some regulations that actually say  
22 that the funding will be phased out over a  
23 certain amount of years.

24 And I'm hoping we can work together on

1           that, because Dunkirk is going to repower the  
2           NRG plant, and it will take two years for the  
3           project to be finished. And in the meantime,  
4           I think we'll be leaving Dunkirk, Chautauqua  
5           County, and the school district in a very  
6           precarious spot.

7                     And I'm sure that there are other  
8           communities around the state that are  
9           concerned about the same thing, so hopefully  
10          we can work together on that issue.

11                    Okay, thank you.

12                    Senator Boyle. Oh, I'm sorry, no, the  
13          Assembly -- I'm sorry, I thought Denny said  
14          we were done, but we're not.

15                    CHAIRMAN FARRELL: Assemblyman  
16          McLaughlin.

17                    And we've been joined by Nick Perry.

18                    ASSEMBLYMAN McLAUGHLIN: Thank you,  
19          Mr. Chairman.

20                    Mr. Zemsky, thank you for your  
21          testimony. I'll go fairly quickly, because  
22          time is short.

23                    But you've stated -- I think you'd  
24          agree that \$53 million has in fact been spent

1 on the START-UP NY campaign, is that correct?

2 COMMISSIONER ZEMSKY: I would say that  
3 money's been spent on promoting New York  
4 State as a place to do business.

5 ASSEMBLYMAN McLAUGHLIN: But not --  
6 well, the ads were not START-UP NY specific?

7 COMMISSIONER ZEMSKY: That the ads  
8 included reference to START-UP NY, but that  
9 for now many years we've been promoting  
10 New York State as a place to do business.

11 ASSEMBLYMAN McLAUGHLIN: So it was --  
12 yeah, you've said that it was about changing  
13 the perception of New York as a friendly  
14 place to do business, right? But in fact,  
15 \$53 million was spent.

16 Do you agree or disagree with the  
17 Governor's statement -- that he has  
18 repeatedly made, by the way -- that  
19 START-UP NY cost nothing?

20 COMMISSIONER ZEMSKY: I think what  
21 he's referring to is that START-UP NY, the  
22 companies aren't paying any taxes currently.  
23 So they're start-up businesses, you're not  
24 foregoing revenue that you had been receiving

1 in the past. And so in that sense,  
2 there's -- you know, it's not a cost in terms  
3 of removing what had been some annuity of  
4 revenue.

5 ASSEMBLYMAN McLAUGHLIN: Well, that's  
6 not completely true, and I'll get back to  
7 that in a second.

8 But in fact, his own Division of  
9 Budget states that it will cost us  
10 \$323 million over the first three years of  
11 operation. Do you agree with that or not?

12 COMMISSIONER ZEMSKY: I don't -- I'm  
13 not familiar enough with it. I don't -- I  
14 definitely don't agree with it, based on what  
15 I know, no.

16 ASSEMBLYMAN McLAUGHLIN: So we're  
17 not -- we're saying that the Division of  
18 Budget is not correct in apparently stating  
19 that we are losing revenue -- and I guess the  
20 Governor's tortured logic is that because the  
21 companies weren't here, they weren't paying  
22 it to begin with, so therefore it didn't cost  
23 anything. However, I don't think there's any  
24 doubt that \$53 million went to an advertising

1 campaign overwhelmingly targeted towards  
2 START-UP NY. Do you agree with that or  
3 disagree?

4 COMMISSIONER ZEMSKY: I -- we've --  
5 I've answered the question.

6 ASSEMBLYMAN McLAUGHLIN: Not really.

7 The GEMx plant in -- the GE GEMx  
8 plant, the Empire State Development -- your  
9 agency has listed I think a \$12.5 million  
10 grant to GEMx. Is that -- are you familiar  
11 with that grant? It's a GE subsidiary.

12 COMMISSIONER ZEMSKY: Yup.

13 ASSEMBLYMAN McLAUGHLIN: GEMx shut  
14 down. Is there any plan or any ability to  
15 recoup that \$12.5 million?

16 COMMISSIONER ZEMSKY: I think we have  
17 recouped some.

18 ASSEMBLYMAN McLAUGHLIN: Some? Okay.  
19 Any idea how much?

20 COMMISSIONER ZEMSKY: I don't recall  
21 offhand. But yeah, we did.

22 ASSEMBLYMAN McLAUGHLIN: Okay.

23 The original plan for START-UP NY was  
24 about \$150 million, as I understand it, and

1 the original projection was for 4,000 jobs.  
2 It created 408, after \$53 million. It's now  
3 in its third iteration. It started as  
4 Tax-Free NY. That apparently didn't fly with  
5 polling, and it was immediately changed to  
6 START-UP NY. And now we're on to the  
7 Excelsior Program again.

8 If it's such a success, if START-UP NY  
9 was such a success -- and just a week ago,  
10 the Governor said that START-UP NY  
11 effectively applies to every single one of  
12 our economic development programs across the  
13 entire state. Well, if that's the case, why  
14 are we abandoning the START-UP NY name after  
15 spending \$53 million? Because anything  
16 that's a success you don't abandon, I'd think  
17 you agree.

18 COMMISSIONER ZEMSKY: I think it's  
19 great that you want to -- you know, that now  
20 after, you know, beating me up for a couple  
21 of years on START-UP NY, you want to keep  
22 START-UP NY.

23 ASSEMBLYMAN McLAUGHLIN: No, I don't  
24 want to keep it. I've said it's a disaster



1 to begin with.

2 COMMISSIONER ZEMSKY: I'm in shock.

3 ASSEMBLYMAN McLAUGHLIN: I'm just  
4 wondering why it is that you proclaimed it a  
5 success repeatedly here today and, for the  
6 past couple years, this Governor has  
7 proclaimed it a success all over the place up  
8 until a week ago, and now suddenly pulls the  
9 plug on it and renames it Excelsior. Which  
10 is a complete waste of the \$53 million in  
11 advertising, because you're no longer going  
12 to see START-UP NY.

13 COMMISSIONER ZEMSKY: Okay, I assume  
14 that wasn't a question or --

15 ASSEMBLYMAN McLAUGHLIN: No, that's a  
16 question. I'm like --

17 COMMISSIONER ZEMSKY: What's the  
18 question?

19 ASSEMBLYMAN McLAUGHLIN: -- how do you  
20 justify wasting the \$53 million and  
21 rebranding it to Excelsior Program when  
22 you've proclaimed it repeatedly to be a  
23 success? By the way -- that's my question.  
24 But by the way, even if you had hit your

1 numbers of 4,000 jobs after \$153 million, I  
2 think any analysis of that would find that to  
3 be a pathetic number of jobs created -- 4,000  
4 after \$153 million.

5 COMMISSIONER ZEMSKY: Right.

6 ASSEMBLYMAN McLAUGHLIN: So that set  
7 aside, I just don't understand -- my question  
8 is, how are you justifying it, how is this  
9 Governor justifying rebranding it yet again?

10 COMMISSIONER ZEMSKY: We think it's a  
11 simplification of the program and it fits  
12 seamlessly with Excelsior, which has a very  
13 strong brand here in New York. And you start  
14 out in the Excelsior Business Program, you  
15 can graduate to the Excelsior Job Program.

16 Excelsior is not exactly a name that  
17 doesn't have brand equity. It's been used  
18 and it's familiar for hundreds of years.  
19 And, you know, it's a reset.

20 And from my standpoint, you know, it's  
21 a curious environment, and all of your anger  
22 about it -- you know, I lived upstate, I live  
23 upstate now for 35 years. I think it's a  
24 great opportunity to connect industry with

1           academia. I realize that it doesn't have the  
2           instant gratification that you demand, but it  
3           has the opportunity to be really  
4           transformative. And the opportunity to  
5           connect business with colleges and  
6           universities more aggressively is a really  
7           important idea.

8                         Facebook had about 10 people after its  
9           first year; I suspect you would have called  
10          it a failure. So the point is there's a lot  
11          that goes into innovation.

12                        Companies that were open in New York  
13          State for less than one year created  
14          175,000 jobs. Companies that were open in  
15          New York State for more than 25 years created  
16          125,000 jobs a couple of years ago. We are  
17          trying to build the innovation ecosystem in  
18          the State of New York, and we're trying to  
19          connect colleges and universities to industry  
20          and give opportunities for college students  
21          with those industries. We lost such a  
22          disproportionate share of kids that age, it  
23          was criminal.

24                        And so there are initiatives like

1           START-UP NY -- and if you don't like the  
2           name, the old name or the new name, the idea  
3           is important. And the willingness to say  
4           what worked -- or didn't work, frankly, in  
5           upstate New York forever -- means there's no  
6           reason to be so married to the status quo of  
7           what worked so poorly for so long.

8                     ASSEMBLYMAN McLAUGHLIN: Yeah.

9                     COMMISSIONER ZEMSKY: So I'm glad --

10                    ASSEMBLYMAN McLAUGHLIN: Right, well  
11           it doesn't work.

12                    COMMISSIONER ZEMSKY: -- he has the  
13           gumption to start a program --

14                    ASSEMBLYMAN McLAUGHLIN: What doesn't  
15           work is high taxes, high fees --

16                    COMMISSIONER ZEMSKY: -- that connects  
17           colleges and universities to industry --

18                    ASSEMBLYMAN McLAUGHLIN: -- high  
19           regulations, the worst tax environment in the  
20           United States.

21                    So you can spin this however you want.  
22           This program was an epic failure. Admitted  
23           to, offhandedly, by the fact that you're  
24           rebranding it.

1                   Let me talk about --

2                   CHAIRMAN FARRELL: Ah, no.

3                   ASSEMBLYMAN McLAUGHLIN: Let me talk  
4                   about --

5                   CHAIRMAN FARRELL: Mr. McLaughlin,  
6                   your time has run out. Thank you --

7                   ASSEMBLYMAN McLAUGHLIN: Give me one  
8                   more question, Mr. Chairman, if you would.

9                   CHAIRMAN FARRELL: No, no, no. We  
10                  haven't given it to anybody else.

11                  CHAIRWOMAN YOUNG: Thank you.

12                  Senator Boyle.

13                  SENATOR BOYLE: Thank you, Chairwoman.

14                  And thank you again, Commissioner, for  
15                  coming here today and for lending your  
16                  business expertise to our government. We  
17                  appreciate your service.

18                  A quick point. One of the things that  
19                  you're hearing over and over again is a  
20                  frustration, I think, on the part of  
21                  legislators about the lack of transparency  
22                  and openness, or what we perceive as that.

23                  COMMISSIONER ZEMSKY: Right.

24                  SENATOR BOYLE: And we're not talking



1 things, but if we have different ways of  
2 comparing apples and apples and oranges and  
3 oranges, that's difficult to make.

4 So I would hope you would consider  
5 doing that, having some proposal to put it  
6 all out there with a database of deals, if  
7 you will, or a master list of projects.

8 COMMISSIONER ZEMSKY: Right. And  
9 we -- the REDCs have -- you can find like  
10 5,000 projects on that website.

11 CHAIRWOMAN YOUNG: Thank you.

12 Do you have any? I think we're all  
13 set.

14 So thank you so much, Mr. Zemsky, for  
15 being here today --

16 COMMISSIONER ZEMSKY: Okay, thank you.  
17 Appreciate it. Thanks for everyone's time.

18 CHAIRWOMAN YOUNG: -- for being  
19 forthcoming and giving the answers. So we  
20 truly appreciate your service to the state  
21 and everything that you do. So thank you.

22 COMMISSIONER ZEMSKY: Thank you.  
23 Thank you very much.

24 CHAIRMAN FARRELL: Thank you.

1                   CHAIRWOMAN YOUNG: Our next speaker is  
2 Commissioner RoAnn Destito, New York State  
3 Office of General Services, OGS.

4                   While we're getting settled, I do want  
5 to read into the record comments by New York  
6 State Senator John J. Bonacic before the  
7 Economic Development Joint Budget Hearing.  
8 Unfortunately, Senator Bonacic was not able  
9 to join us today, and I'll put his statement  
10 into the record.

11                   "I unfortunately am unable to attend  
12 today's hearing due to pressing matters in my  
13 district. However, I would like to share the  
14 following concerns regarding economic  
15 development in New York State, specifically  
16 related to the 33,000 direct and indirect  
17 jobs attributable to the horse racing  
18 industry.

19                   "It is very fitting that we are having  
20 the Economic Development Joint Budget Hearing  
21 on the same day as the opening of del Lago  
22 Casino, which is expected to create jobs and  
23 spur economic development in upstate  
24 New York. However, we must now fully address



1 the very real impact of the cannibalization  
2 of video lottery terminal revenues at  
3 Finger Lakes by a new gaming facility less  
4 than 27 miles away. In their gaming facility  
5 license application, del Lago's own market  
6 study included an expected cannibalization of  
7 21 percent of Finger Lakes' revenue, and  
8 other estimates have put this expected  
9 cannibalization rate significantly higher.

10 "This will lead to a corresponding  
11 decrease in the video lottery terminal  
12 revenue streams, which are currently  
13 dedicated to fund purse support payments at  
14 Finger Lakes and contributions to the  
15 New York Thoroughbred Breeding and  
16 Development Fund. Without a solution to  
17 address this crisis, we are putting at risk  
18 the future of the New York racing industry  
19 and the hundreds of jobs that support  
20 thoroughbred racing at Finger Lakes.

21 "Additionally, video lottery terminal  
22 revenues for purse support and breeding fund  
23 payments generated by Resorts World at  
24 Aqueduct have been impacted by incongruent

1 distribution formulas, which has led to a  
2 reduction in funds available for the New York  
3 Thoroughbred Breeding and Development Fund  
4 and purse support payments at NYRA tracks.  
5 This is another issue which demands our  
6 immediate attention and action to address it  
7 in the budget.

8 "On the issue of NYRA privatization  
9 itself, the Governor has provided us with a  
10 workable road map, and I believe, through  
11 negotiation, we will be able to come to a  
12 workable solution. However, I would like to  
13 stress the importance I feel for both the  
14 breeders and horsemen to have a full voting  
15 representative on the new NYRA Board.  
16 Additionally, there is a need for increased  
17 clarity and specificity for the circumstances  
18 under which video lottery terminal revenues  
19 to NYRA will be subject to impoundment by the  
20 Franchise Oversight Board, combined with the  
21 need for a greater-than-simple majority vote  
22 to do so."

23 Those are the personal views of  
24 Senator Bonacic. He asked that we read them

1           into the record today. I believe that the  
2           racing proposals will be examined under the  
3           Taxation budget hearing that's upcoming, but  
4           thank you for your indulgence.

5                     Commissioner, hi.

6                     COMMISSIONER DESTITO: Hi, Senator,  
7           how are you?

8                     CHAIRWOMAN YOUNG: I'm great. Good to  
9           see you.

10                    COMMISSIONER DESTITO: Good to see  
11           you.

12                    Assemblyman --

13                    CHAIRMAN FARRELL: Commissioner.

14                    COMMISSIONER DESTITO: -- Chairman.  
15           Do you want me to start?

16                    CHAIRMAN FARRELL: Yes.

17                    COMMISSIONER DESTITO: Okay.

18                    Good morning. I'm RoAnn Destito,  
19           commissioner of the Office of General  
20           Services, and I'd like to thank Senator  
21           Young, chair of the Senate Finance Committee,  
22           and Assemblymember Denny Farrell, chair of  
23           the Assembly Ways and Means Committee, for  
24           inviting me to testify today. I would also

1           like to thank the members of the committee.

2           Thank you.

3                       From operating buildings to  
4           construction management, establishing  
5           procurement contracts, and conducting tours  
6           of the Capitol, OGS is truly a diverse  
7           organization. We lead the way on a number of  
8           the Governor's enterprise initiatives that  
9           increase efficiencies in state government,  
10          including our new Business Services Center,  
11          Real Estate Center, and Procurement Services.

12                      I'm glad to be here today to talk  
13          about the progress of the Division of  
14          Service-Disabled Veterans' Business  
15          Development at OGS, and I'll refer to it as  
16          "the division." Before I get much further,  
17          I'd like to point out and apologize that the  
18          annual report due on December 31st was  
19          several weeks late, but posted on our website  
20          early last week. And it's [www.OGS.ny.gov](http://www.OGS.ny.gov).

21                      As a member of the New York State  
22          Assembly for 19 years before becoming OGS  
23          commissioner, I was a strong advocate for the  
24          veterans community. This is why I am so

1 honored that Governor Cuomo signed the  
2 Service-Disabled Veteran-Owned Business Act  
3 into law in May 2014 and made OGS the agency  
4 from which it would be managed.

5 Today I am pleased to tell you that  
6 more than \$33 million in state contracts have  
7 been awarded to businesses certified by OGS.  
8 As of December 31, 2016, a total of  
9 284 businesses have been certified. And  
10 today that number is hovering at 300.

11 When Governor Cuomo signed this act  
12 into law, he sent a strong message about his  
13 commitment to veterans, and we have achieved  
14 a high level of success already. New York  
15 State is certifying businesses at a  
16 nation-leading pace, and in fewer than two  
17 years we are already third of the seven  
18 states that have similar programs. Only  
19 California, which has been doing this since  
20 1989, and Maryland, which started its program  
21 in 2010, have more certified businesses.

22 The number of state-certified  
23 service-disabled veteran businesses continues  
24 to grow due to the focused efforts of the

1 program staff, who are all veterans  
2 themselves. They conduct in-depth due  
3 diligence to make sure that all businesses  
4 certified are legitimately controlled by  
5 qualifying service-disabled veterans and are  
6 capable of performing on state contracts.

7 The division places a high priority on  
8 an efficient, thorough, and timely  
9 certification process. In 2016, 112  
10 businesses were certified in an average time  
11 of 39 working days, with 88 percent receiving  
12 a face-to-face visit by the division's  
13 executive director prior to certification.  
14 The list of businesses is available on our  
15 website and is updated regularly.

16 The division is taking steps to  
17 increase the pool of state-certified  
18 businesses to meet the statewide 6 percent  
19 goal by taking a two-pronged approach.  
20 First, by focusing efforts on identifying and  
21 certifying existing service-disabled  
22 veteran-owned businesses (SDVOBs) and,  
23 second, by working with strategic partners to  
24 help service-disabled veterans start new

1 businesses.

2           During its first fiscal year,  
3 2015-2016, the division began its work with a  
4 pilot group of six agencies and four  
5 authorities. The pilot was an extreme  
6 success. As a result of these achievements,  
7 the expansion of the program statewide was  
8 announced in December 2015 for the fiscal  
9 year 2016-2017.

10           The first step in the statewide  
11 implementation was to receive goal plans from  
12 all participating agencies and authorities  
13 detailing their action plan to work toward  
14 the 6 percent utilization goal. Through the  
15 end of the second quarter of 2016-2017, 49  
16 out of the 97 agencies and authorities  
17 executed more than \$9.3 million in contracts  
18 with state-certified businesses, including  
19 more than \$6.6 million in disbursements. As  
20 a result, by September 30, 2016,  
21 94 businesses -- more than 33 percent of all  
22 state-certified firms -- had been awarded a  
23 state contract.

24           The division is actively engaged in

1 educating agency and authority staff.  
2 Through classes, webinars, and matchmaking  
3 events, the division is providing agency and  
4 authority staff with the tools and resources  
5 to help them meet their goals.

6           The Statewide Financial System has  
7 been updated to include New York State-  
8 certified status as part of the vendor file,  
9 and a new prompt has been added to all  
10 document-listing reports in AnalyzeNY  
11 Financials, which allows users to filter data  
12 based on New York State-certified SDVOB  
13 status. These updates will allow reports to  
14 be generated within AnalyzeNY Financials to  
15 assist agencies in completing their quarterly  
16 SDVOB activity reports.

17           OSC performed an audit of the  
18 implementation of the program for the period  
19 from June 2014 through December 2015 and  
20 issued its report in September 2016. The  
21 headline for the news release from the Office  
22 of the New York State Comptroller dated  
23 September 7, 2016, was "OGS Veteran-Owned  
24 Business Program Off to Good Start."



1           The OSC audit report states: "The  
2           division has made substantial progress  
3           carrying out its responsibilities to  
4           implement the program during the 18 months  
5           since the act was created."

6           During the course of the audit, OSC  
7           recognized the division's nation-leading  
8           certification growth rate and stated in the  
9           report that "the Division instituted a  
10          targeted marketing strategy to attract SDVOB  
11          applications, and coordinated with various  
12          state agencies and authorities to help them  
13          understand the program and to encourage the  
14          use of certified SDVOBs."

15          The division will continue to take  
16          steps to increase the pool of certified  
17          service-disabled veteran-owned businesses,  
18          educate them on the best ways to secure  
19          contracts, and assist agencies and  
20          authorities in identifying and contracting  
21          with these businesses. These steps include  
22          installing a new online database, building  
23          better reporting systems, creating additional  
24          matching opportunities, continuing education

1 for businesses and agencies, promoting  
2 contract segmenting and set-asides, and more.  
3 We will be right there trying to help them  
4 make their goals and get more people  
5 involved.

6 We would be happy to partner with the  
7 Legislature at events in your communities to  
8 help educate veterans about the certification  
9 process and bring certified businesses and  
10 the state together.

11 OGS is proud to report on the  
12 tremendous success that the division has  
13 achieved in the 2 1/2 years since the passage  
14 of the act. Thank you for your time, and I'd  
15 be glad to answer any questions that you  
16 might have.

17 CHAIRWOMAN YOUNG: Thank you,  
18 Commissioner.

19 Senator Croci has a question.

20 COMMISSIONER DESTITO: Okay.

21 SENATOR CROCI: Commissioner, how are  
22 you?

23 COMMISSIONER DESTITO: Hi, Senator  
24 Croci, how are you?

1                   SENATOR CROCI: I'm very well.

2                   Thank you again for your call this  
3 morning. I understand -- I have read the  
4 Comptroller's report, and of the state  
5 agencies that have been audited in the last  
6 year, yours seems to be one of the best. So  
7 I compliment you on that.

8                   COMMISSIONER DESTITO: Thank you.  
9 We've had about five audits this past year,  
10 and we've come through with good reports.  
11 Thank you.

12                   SENATOR CROCI: Unfortunately, the  
13 reports are not as good for some of the other  
14 agencies. And one of the consistent themes  
15 in the Comptroller's reporting is  
16 transparency and accountability and  
17 cooperation with his auditors.

18                   I did receive your report, and thank  
19 you for telling us that it did come in late.  
20 I wanted to know, was the lateness of the  
21 report due to other agencies failing to give  
22 you the information that you requested?

23                   COMMISSIONER DESTITO: The report --  
24 we had to -- we have three members, as I

1           stated, in this division. They're all  
2           veterans. They work very hard. I have two  
3           of them with me today.

4                     I can tell you that we also had the  
5           January 15th deadline for the utilization  
6           goals and the plans coming in at the same  
7           time, so it was just a matter of really work  
8           and bandwidth for getting the work done.

9                     SENATOR CROCI: So all of the  
10          departments and agencies beneath you who had  
11          to provide you with their materials did so in  
12          a timely manner?

13                    COMMISSIONER DESTITO: Yes. And I  
14          can't talk off the top of my head as far as  
15          who had it in on time or who didn't, but we  
16          were in the process of doing both the new  
17          plans as well as the report for  
18          December 31st. So we apologize. We were  
19          25 days late. We're very sorry, and we will  
20          try to do better the next time.

21                    SENATOR CROCI: The report itself --  
22          curiously, one of the departments or agencies  
23          that the Comptroller did cite for being less  
24          than transparent, ITS, was in your previous

1 two reports but somehow fell off the most  
2 recent report that you referenced. So I'm  
3 wondering why ITS is not on there, and what  
4 is their compliance rate? The commissioner  
5 testified yesterday. It was ambiguous. But  
6 I would very much like to know why they're  
7 not on this report and what percentage rate  
8 of compliance they're at.

9 COMMISSIONER DESTITO: I will get that  
10 information to you, Senator.

11 SENATOR CROCI: You're going to  
12 provide it to the committee.

13 COMMISSIONER DESTITO: Excuse me?

14 SENATOR CROCI: You're going to  
15 provide the information to the committee?  
16 Thank you.

17 COMMISSIONER DESTITO: I will see why  
18 it wasn't in there, yes. Thank you. I'm  
19 sorry.

20 SENATOR CROCI: Okay. And then as you  
21 go through the list on the report of all the  
22 agencies that have complied, whereas I think  
23 progress is a good thing, there are a lot of  
24 agencies at 0, 0.12, 1.72, 0.28. There are

1           only a few that are completely compliant in  
2           the entire State of New York.

3                        I think the intent of the  
4           Service-Disabled Veteran-Owned Business Act  
5           of 2014 -- and I wasn't here to see that go  
6           through the steps -- was to send a message to  
7           veterans all over the country that if you  
8           come to New York State, whether you're from  
9           here or you want to relocate to here, this is  
10          a place that recognizes the value of your  
11          service, the value of your experience --  
12          which for a lot of veterans is unique. It's  
13          tough to write what you do in the military on  
14          a civilian resume.

15                       But this sluggish and anemic growth  
16          and compliance rate is something that I think  
17          the departments and agencies -- and you're  
18          just the reporting agency. And OGS is  
19          compliant, and you exceeded the 6 percent.  
20          But some of your colleagues in the other  
21          departments and agencies are not.

22                       So what I would ask is what measures  
23          are being taken to ensure that when you come  
24          back or the other commissioners come back

1 next year, that we see 6 percent, 6 percent,  
2 6 percent, 10 percent, 100 percent  
3 compliance?

4 COMMISSIONER DESTITO: Well, first of  
5 all, let me state that from the inception of  
6 the program, the division has received  
7 361 applications which resulted in 284  
8 certifications. And as I said, we're  
9 hovering at about 300 because I just signed  
10 some more certificates. But we feel that  
11 through the end of the second quarter of  
12 2016-2017, 49 of the 97 agencies and  
13 authorities executed more than \$9.3 million  
14 in contracts with these businesses, including  
15 more than \$6.6 million in disbursements. And  
16 as a result, 94 businesses -- more than  
17 33 percent of the state-certified firms --  
18 have been awarded a contract.

19 But you also asked what are we doing  
20 next. We're installing a new database which  
21 will have a robust, searchable public  
22 database for the service-disabled  
23 veteran-owned businesses. And it will  
24 replace the current spreadsheet that we have

1 and will allow agency and authority personnel  
2 to efficiently search and research for the  
3 businesses that meet their specific needs.

4 We're going to build reporting  
5 systems. We really strive to improve agency  
6 compliance. We understand that you're  
7 looking at it, we're looking at it. You  
8 know, we're all trying to work very well  
9 together and help the agencies with their  
10 discretionary spend and show them where the  
11 businesses are available to provide services  
12 and commodities and the like.

13 So we are really creating additional  
14 matching opportunities. The staff goes out  
15 all the time. We've worked with Nassau  
16 County to help them implement their program.  
17 They use our list, and they find it very  
18 effective along with what they're doing down  
19 in Nassau County.

20 So we're also providing continuing  
21 education for the businesses and agency and  
22 authority personnel. We're identifying  
23 additional resources. So we're seeking out  
24 third-party resources to promote the SDVOB



1 utilization and assistance, and we're  
2 promoting contract segmenting and set-asides.  
3 We want everybody to understand the  
4 segmenting of contracts so that some  
5 contracts might be able to be pulled out of  
6 larger contracts so that the veteran-owned  
7 businesses will be able to provide the work,  
8 where they might not be able to bid on the  
9 larger project.

10 And we're increasing the national  
11 service-disabled veteran-owned businesses in  
12 a national inclusion. We'll promote the  
13 New York State program to all of the SDVOB  
14 groups to encourage them to develop the  
15 sufficient New York State presence required  
16 for certification. Because we have a  
17 requirement, as you know, to be one year in  
18 New York State.

19 SENATOR CROCI: I'm out of time. I'll  
20 just end with this question. I'm looking at  
21 Empire State Development, \$635 million in  
22 agency non-exempt and non-excluded  
23 disbursements made. Zero percent went to  
24 service-disabled veteran-owned businesses.

1           ITS -- and this is the last report that I  
2           have, because IT is not on this current  
3           report -- \$75 million in disbursements;  
4           0.0 percent went to -- and those are areas  
5           where you would think the military skill set  
6           easily translates into those fields. And of  
7           course a lot of us who are veterans know that  
8           there are those businesses out there.

9                        I just find it very difficult to  
10           believe that this report doesn't, first of  
11           all, have ITS in it -- as an oversight, is it  
12           some mistake, or was it deliberately held  
13           back because it again --

14                       COMMISSIONER DESTITO: No. We'll  
15           continue --

16                       SENATOR CROCI: -- shows a low  
17           percentage?

18                       COMMISSIONER DESTITO: We will  
19           continue to work with ITS. We will get you  
20           information.

21                       And again, I think that installing the  
22           database and building better reporting  
23           systems -- is a brand-new program for our  
24           agency as well as the services that we

1 provide from ITS. So we are paying for a  
2 database search engine to be placed in our  
3 agency. So I think that will help resolve  
4 the problem.

5 SENATOR CROCI: Well, I appreciate  
6 that, because I don't want our veterans to  
7 question our commitment to them and to their  
8 families, and I certainly don't want our  
9 veterans to question the Governor's  
10 commitment to them when he signed this into  
11 law.

12 COMMISSIONER DESTITO: I can assure  
13 you that Governor Cuomo and myself  
14 personally, we share your same sentiment with  
15 regard to this program, the veteran  
16 businesses and their families all across the  
17 State of New York.

18 SENATOR CROCI: Thank you.

19 COMMISSIONER DESTITO: And I can tell  
20 you -- I also have to say I will speak for my  
21 division director. He is sincerely dedicated  
22 and works very hard on this program to meet  
23 everyone and to go out there and search for  
24 the businesses.

1                   SENATOR CROCI: Thank you. And I  
2                   thank you all for your hard work in this  
3                   area.

4                   COMMISSIONER DESTITO: Thank you.

5                   SENATOR CROCI: Thank you, Madam  
6                   Chair.

7                   CHAIRWOMAN YOUNG: Thank you.

8                   Chairman Farrell?

9                   CHAIRMAN FARRELL: Thank you.

10                  We've been joined by Vivian Cook,  
11                  Assemblywoman.

12                  And first to question, Assemblywoman  
13                  Woerner.

14                  COMMISSIONER DESTITO: Hi.

15                  ASSEMBLYWOMAN WOERNER: Hi,  
16                  Commissioner. Thank you so much.

17                  Congratulations on a successful pilot.

18                  COMMISSIONER DESTITO: Thank you.

19                  ASSEMBLYWOMAN WOERNER: My question  
20                  has to do with the future. So it has been  
21                  successful on a relatively small scale within  
22                  the state. Do you have thoughts about  
23                  expanding this program beyond the state  
24                  border to counties, municipalities, school

1 districts, BOCES who might also be able to  
2 take advantage of the highly skilled  
3 service-disabled veterans businesses that we  
4 have, and who will then have a track record  
5 of success through state contracts?

6 COMMISSIONER DESTITO: Thank you for  
7 your question. We already work with some of  
8 the local governments. They use our -- they  
9 look to us for the certified businesses.

10 And as I stated, Nassau County has  
11 really partnered with us to establish and  
12 expand their program. So we are out there  
13 talking at as many match-making events -- we  
14 invite locals to our events. And we'd love  
15 to work with any of your local governments,  
16 we'd love to match-make with you in your  
17 districts all over the state, because I think  
18 you know where the businesses are in your  
19 district and I think you'd be very helpful.

20 Ken Williams is our director. I'll  
21 have him raise his hand. He is very good,  
22 and he will come out and talk with whoever  
23 you would like him to. And especially local  
24 governments, because we'd love to share and

1 collaborate.

2 ASSEMBLYWOMAN WOERNER: Fantastic.

3 Thank you very much.

4 COMMISSIONER DESTITO: Thank you.

5 CHAIRWOMAN YOUNG: Okay, thank you.

6 Senator Savino, do you have questions?

7 SENATOR SAVINO: Just one. Thank you,  
8 Senator Young.

9 Good afternoon, Commissioner.

10 COMMISSIONER DESTITO: How are you,  
11 Senator?

12 SENATOR SAVINO: How are you?

13 So I just want to ask a question, and  
14 I ask you this every year, but it seems to be  
15 getting even smaller. So the Concourse,  
16 we're losing business on the Concourse. The  
17 florists are gone, the candy stores are gone,  
18 even the banks are gone. And I'm just  
19 somewhat confused. It's like New York is  
20 open for business everywhere, apparently, but  
21 the Empire Plaza.

22 So what's happening on the Concourse,  
23 and why don't we have any business? We have  
24 a captive audience. I would think we should

1 be able to --

2 COMMISSIONER DESTITO: Well, first of  
3 all, those were all decisions made by the  
4 businesses themselves. As you know, we can't  
5 require people to stay in locations.

6 We do have banks, we have credit  
7 unions. We have expanded our food  
8 specialties. Our restaurants have expanded.  
9 We've been very successful on that level.

10 We are currently in the process,  
11 through our Real Estate Center, working with  
12 an outside broker to look at retail and bring  
13 more retail services into the Concourse. But  
14 both the candy, the cards and the floral have  
15 all made decisions, business decisions to  
16 leave.

17 SENATOR SAVINO: Well, certainly, you  
18 know, I understand business decisions. But I  
19 just think that working with --

20 COMMISSIONER DESTITO: Retirement was  
21 one of -- two of them retired.

22 SENATOR SAVINO: But it would just  
23 seem that we should do more to promote the  
24 Concourse, I think. Because it's not just

1           those of us who work here who would  
2           appreciate being able to, I don't know,  
3           purchase a pair of stockings if we get a run  
4           one day. But even in the neighborhood around  
5           here, people would come --

6                        COMMISSIONER DESTITO: Thank you,  
7           Senator Savino. We agree with you  
8           wholeheartedly. And we're active and  
9           hopefully we'll be able to demonstrate to you  
10          through our Real Estate Center that we will  
11          be adding more retail establishments.

12                      SENATOR SAVINO: Okay. And finally,  
13          this might be -- it's not necessarily  
14          budget-related. Maybe it's a pet peeve of  
15          mine because my office is on the third floor.  
16          But every day at 5 o'clock the guys leave out  
17          the third-floor exit onto State Street. And  
18          for whatever reason, there's no one there to  
19          man it, and people just walk right through  
20          it, and the alarm will ring and ring and  
21          ring. It will go on for hours before someone  
22          comes and turns it off --

23                      COMMISSIONER DESTITO: Okay, thank  
24          you.



1                   SENATOR SAVINO:  -- despite the phone  
2                   calls.  Again, it's not budget-related, but  
3                   it just drives us crazy on the third floor.

4                   COMMISSIONER DESTITO:  Senator Savino,  
5                   we'll take a look at it and make sure we  
6                   address that issue.

7                   SENATOR SAVINO:  Okay, thank you.

8                   COMMISSIONER DESTITO:  You're welcome.

9                   CHAIRWOMAN YOUNG:  Commissioner, I  
10                  just have a couple of questions.

11                  COMMISSIONER DESTITO:  Okay, sure.

12                  CHAIRWOMAN YOUNG:  Under the Executive  
13                  Budget proposal, there would be the creation  
14                  of a Chief Procurement Officer who would  
15                  serve as the principal officer tasked with  
16                  oversight of state procurements.  And the  
17                  duties would include oversight of the  
18                  integrity and uniformity of procurement  
19                  practices across the state, disclosing  
20                  reportable matters to the State Inspector  
21                  General, ensuring state procurement staff are  
22                  prepared and positioned to conduct effective  
23                  and ethical procurements, and serving as a  
24                  member of the Procurement Council.

1 I believe that's the language that's  
2 included.

3 COMMISSIONER DESTITO: Yes.

4 CHAIRWOMAN YOUNG: So what would the  
5 process for oversight for the state  
6 procurement contracts be? How would it  
7 actually work?

8 COMMISSIONER DESTITO: Well, first of  
9 all, I'm supportive of the Governor's  
10 proposal to create a position of Chief  
11 Procurement Officer.

12 But the official would have oversight  
13 of all procurements in the state. We just do  
14 centralized contracts and ITS contracts at  
15 OGS. So it would be -- currently there is no  
16 one that oversees all procurement throughout  
17 the state.

18 I have a procurement officer that  
19 really just does what we're responsible for,  
20 and we are bound by State Finance Law in our  
21 procurements.

22 So I believe that this person filling  
23 this role would really help ensure that the  
24 best practices of procurement are being

1 applied consistently throughout all of the  
2 procurement statewide. So I think that's  
3 what the Governor is trying to achieve, that  
4 all of the procurements and the best  
5 practices that we use at OGS and throughout  
6 the State of New York agencies are  
7 consistently applied all over.

8 CHAIRWOMAN YOUNG: So, for example,  
9 would this procurement officer oversee the  
10 Comptroller's office or the Attorney  
11 General's --

12 COMMISSIONER DESTITO: No, not the  
13 Comptroller's office, I don't believe. It  
14 would be executive -- I believe it says  
15 executive agencies and public authorities.

16 CHAIRWOMAN YOUNG: Okay. So strictly  
17 within the executive branch and the --  
18 gotcha, okay. Thank you.

19 Just a quick question about the flood  
20 damage and recovery proposal that the  
21 Governor has. It would require OGS to make a  
22 payment in an amount no less than coverage  
23 limits of a standard flood insurance policy  
24 when a state-owned structure and its

1 contents are damaged as a result of a flood.  
2 And payments would only be made on damages  
3 incurred on state-owned structures in flood  
4 plains designated by the Federal Insurance  
5 Administrator.

6 So the Governor is saying that the  
7 legislation is necessary to maintain New York  
8 State's exemption from the requirement of  
9 purchasing flood insurance on state-owned  
10 structures and its contents within these  
11 federally designated areas.

12 So what would the term of the policy  
13 be, commissioner?

14 COMMISSIONER DESTITO: The policy --  
15 we are not the ones that will administer it.  
16 We're going to purchase it, because we have  
17 the Bureau of Insurance under our agency.

18 We are working with the Division of  
19 Homeland Security and Emergency Services, who  
20 works with the federal government. And I  
21 believe one of the reasons for having us  
22 enter into this arrangement is a federal  
23 requirement that we have this type of policy.

24 CHAIRWOMAN YOUNG: Thank you. So this

1 is a four-year policy?

2 COMMISSIONER DESTITO: Yes.

3 CHAIRWOMAN YOUNG: And so what would  
4 the fiscal impact on the state be?

5 COMMISSIONER DESTITO: Excuse me?

6 CHAIRWOMAN YOUNG: Over those four  
7 years, what would the fiscal impact on the  
8 state be? How much money would it --

9 COMMISSIONER DESTITO: The dollars --  
10 I will have to get back to you on the exact  
11 dollar amount that we will be paying.  
12 Because I don't believe we've gone out.

13 CHAIRWOMAN YOUNG: Okay. That would  
14 be helpful to get that.

15 I'm also curious about -- there are  
16 some changes regarding the transfer of  
17 certain Division of Military and Naval  
18 Affairs employees to the Office of General  
19 Services as part of the centralization of  
20 certain human resource functions. I don't  
21 know -- did you discuss that, Senator?

22 SENATOR CROCI: No.

23 CHAIRWOMAN YOUNG: I'm just asking  
24 because he's Division of Military Affairs.

1                   But how many DMNA employees would be  
2 transferred to OGS?

3                   COMMISSIONER DESTITO: We don't have a  
4 number. It's in conjunction with our  
5 Business Service Center, where we will be  
6 taking -- we've done this throughout the  
7 state, in all of the state agencies. It's a  
8 transfer of function. And it's only those  
9 employees that are substantially engaged in  
10 either financial transactions or HR  
11 transactions.

12                   And we need this authorization to  
13 allow us to do that so we can support DMNA in  
14 the HR and finance area. These are the  
15 back-office operations. It has nothing to do  
16 with the strategic work of DMNA or their  
17 subject matter work. It has to do with their  
18 HR functions as well as their financial  
19 transactions. So it's all related to the  
20 Business Service Center, not anything to do  
21 with what they do as an organization.

22                   CHAIRWOMAN YOUNG: Okay. Thank you.

23                   COMMISSIONER DESTITO: You're welcome.

24                   CHAIRWOMAN YOUNG: Anybody else?

1 Senator Krueger.

2 SENATOR KRUEGER: Good afternoon.

3 COMMISSIONER DESTITO: Good afternoon,  
4 Senator Krueger.

5 SENATOR KRUEGER: Just following up on  
6 Senator Young's question about the Chief  
7 Procurement Officer, so that would be  
8 reviewing contracts in advance of letting  
9 them?

10 COMMISSIONER DESTITO: Yes, I believe  
11 they would be reviewing contracts, not so  
12 much -- they would be reviewing for the way  
13 in which it was done. You know, the best  
14 practices, whether it's an RFP, an RFI, all  
15 of the different ways that we can go out to  
16 procure services and commodities and design  
17 and construction.

18 So it would be in oversight. Not that  
19 this Chief Procurement Officer would be doing  
20 it, they would be oversight. And they would  
21 be able to review, at any time, procurement  
22 and I guess refer in a related manner to the  
23 appropriate organization.

24 SENATOR KRUEGER: And who would they

1 report to?

2 COMMISSIONER DESTITO: Actually I  
3 believe it's proposed to be under the OGS  
4 commissioner.

5 And I would say that that's probably  
6 appropriate, because we are where a lot of  
7 the procurements are done, especially the  
8 centralized contracts. So we have the staff,  
9 and we have the best practices that we do,  
10 and we follow State Finance Law. So we would  
11 be probably working with the Chief  
12 Procurement Officer, and that person would  
13 also be part of our Procurement Council.

14 SENATOR KRUEGER: So the Governor has  
15 proposed it because he thinks something  
16 hasn't been working right. Can you give me  
17 an example or two of what hasn't been working  
18 right?

19 COMMISSIONER DESTITO: I believe that  
20 he just wants to see that all  
21 procurements are being done consistently and  
22 with the same best practices that we'd use  
23 and that everyone does across the State of  
24 New York. I don't have an example of what he



1 was thinking.

2 SENATOR KRUEGER: And is the budget  
3 for just one person or a new unit?

4 COMMISSIONER DESTITO: No, it's just  
5 one person. Because I have a full  
6 procurement office.

7 SENATOR KRUEGER: And the Governor has  
8 also proposed a Buy American program within  
9 the budget.

10 COMMISSIONER DESTITO: Correct.

11 SENATOR KRUEGER: Can you tell me  
12 OGS's role either in overseeing the whole  
13 program and/or how you're going to implement  
14 for the procurement you do through OGS?

15 COMMISSIONER DESTITO: The Buy  
16 American, first of all, is proposing an  
17 expansion of New York State's Buy American  
18 legislation. And as you know, it's for  
19 procurements of \$100,000 or more.

20 We currently already use American  
21 steel in our construction projects. But this  
22 is really to -- it really will not  
23 significantly increase the cost of  
24 procurements. We believe that we have

1 manufacturers, not only in New York but in  
2 America, that we should be able to use for  
3 not just design and construction and not just  
4 construction projects, but for commodities  
5 and, you know, products that we use in the  
6 State of New York.

7 So we believe that manufacturing --  
8 each year New York State does spend billions  
9 of dollars on the procurement of goods and  
10 services, and it's our responsibility here in  
11 New York to reinvest our tax dollars in not  
12 only New York products, but buy American.

13 So we don't believe it will be a  
14 difficult implementation.

15 SENATOR KRUEGER: I support the  
16 program. I'm very glad to see him expanding  
17 it.

18 COMMISSIONER DESTITO: Yes. No, we  
19 don't have a problem.

20 SENATOR KRUEGER: Do you do -- have  
21 you done any evaluation now of what  
22 percentage of OGS's purchases aren't of  
23 American products?

24 COMMISSIONER DESTITO: I can tell you

1           that our steel is in our construction  
2           projects, those that we build from scratch.  
3           Although we don't do a lot of building of new  
4           buildings, we do a lot of renovation, gut  
5           rehab and that type of thing.

6                     But I don't know exactly. I know that  
7           the Buy American is going to allow for goods  
8           with up to 40 percent of the component parts  
9           not of domestic origin. So I want you to  
10          also know that that would be helpful. And I  
11          believe that transit buses and subway cars  
12          and all of the like, I think that will help  
13          many of the manufacturers in Northern  
14          New York when it comes to our purchasing.

15                    So I don't have a number for you  
16          because we don't make all the purchases on  
17          behalf of all the state agencies. We only  
18          know our centralized contracts.

19                    SENATOR KRUEGER: But you targeted  
20          exactly a question I was going to ask you,  
21          because I'm from New York City, we buy subway  
22          cars and buses. And we were always very  
23          happy that they were being made in upstate  
24          New York. But some of those companies moved

1           their facilities across the border to Canada.  
2           So under this -- your understanding is that  
3           the MTA would also be obligated to follow  
4           there?

5                     COMMISSIONER DESTITO: Correct, yes.

6                     SENATOR KRUEGER: And somebody's going  
7           to have to figure out how we get our subway  
8           cars built.

9                     COMMISSIONER DESTITO: Right. Well,  
10          Bombardier is in Northern New York, and I  
11          believe that they are building subways cars.  
12          I've been there --

13                    SENATOR KRUEGER: So maybe it's -- is  
14          it the bus companies that went to Canada?

15                    COMMISSIONER DESTITO: It's the bus  
16          companies, I believe. But they also --

17                    SENATOR KRUEGER: So we're okay on the  
18          subway cars, but we might have a new issue  
19          with the buses.

20                    COMMISSIONER DESTITO: Right. So yes.

21                    SENATOR KRUEGER: Thank you very much.

22                    COMMISSIONER DESTITO: You're very  
23          welcome. Thank you.

24                    CHAIRWOMAN YOUNG: Thank you.

1 Chairman Farrell.

2 CHAIRMAN FARRELL: Mr. O'Donnell.

3 ASSEMBLYMAN O'DONNELL: Good  
4 afternoon, RoAnn. Very nice to see you.

5 COMMISSIONER DESTITO: Hi.  
6 Assemblymember O'Donnell, thank you.

7 ASSEMBLYMAN O'DONNELL: I'm sorry I  
8 missed the beginning of your testimony, I was  
9 upstairs. But you seemed to be very thorough  
10 in providing us a lot of facts, and I  
11 appreciate that a great deal.

12 Maybe you missed it; when the previous  
13 commissioner was testifying, I had some  
14 questions about the signs along the highway,  
15 the I Love New York signs, which may or may  
16 not be a violation of federal law. And I  
17 asked him whether or not he had anything to  
18 do with the procurement of those signs, and  
19 he told me he didn't know where they went.  
20 But I wasn't asking about the placement of  
21 the signs, I was talking about the purchasing  
22 of the signs. Did your agency have --

23 COMMISSIONER DESTITO: No.

24 ASSEMBLYMAN O'DONNELL: -- anything to

1 do with the purchasing of the allegedly maybe  
2 illegal signs?

3 COMMISSIONER DESTITO: No, we did not.

4 ASSEMBLYMAN O'DONNELL: And do you  
5 know who did?

6 COMMISSIONER DESTITO: I don't know.  
7 I would believe that it would be the  
8 appropriate transportation agency where they  
9 were placed.

10 ASSEMBLYMAN O'DONNELL: Well, I'm  
11 going to call them the Lady Bird signs from  
12 now on, so we know what we were talking  
13 about.

14 Thank you very much.

15 COMMISSIONER DESTITO: You're welcome.  
16 Thank you.

17 CHAIRMAN FARRELL: Senator?

18 CHAIRWOMAN YOUNG: Anyone else?

19 Well, thank you very much,  
20 Commissioner. It seems like old times when  
21 we had great discussions in the Assembly  
22 together. So we truly appreciate you  
23 appearing today.

24 COMMISSIONER DESTITO: Thank you very

1 much. Thank you for having me. It was great  
2 to be back here.

3 CHAIRMAN FARRELL: My daughter said to  
4 say hello.

5 COMMISSIONER DESTITO: Well, you tell  
6 Sophia hello, please. I missed her last  
7 year.

8 Thank you.

9 CHAIRWOMAN YOUNG: Thank you.

10 Next on the schedule was the Business  
11 Council of New York. Unfortunately, they  
12 were not able to attend today due to illness.

13 So we are going to Executive Director  
14 Brian McMahon, New York State Economic  
15 Development Council. He's joined by Alison  
16 Lands, executive director-designate.

17 Welcome.

18 MR. McMAHON: Good afternoon.

19 CHAIRWOMAN YOUNG: Good afternoon.

20 Happy to have you here.

21 MR. McMAHON: Chairwoman Young, thank  
22 you, Chairman Farrell, thank you for the  
23 opportunity to testify. I don't know if  
24 we'll get you back on track, but we'll do our

1 best.

2           Joining me today is Alison Lands. As  
3 some of you know, last May I informed my  
4 board that I intend to retire on July 1st.  
5 They did an exhaustive search and we're  
6 incredibly fortunate to be able to have hired  
7 Alison, who will succeed me on July 1st.

8           CHAIRWOMAN YOUNG: Congratulations to  
9 both.

10           MR. McMAHON: You have our testimony  
11 in front of you. We're certainly not going  
12 to go through all of the issues we comment  
13 on. In fact, I think what we would like to  
14 do is kind of focus on the second half of our  
15 comments and talk about things that we would  
16 like to see in the Executive Budget that were  
17 not there.

18           Most of these proposals deal with  
19 economic development capacity building for  
20 our communities to help them better prepare  
21 for economic growth in the future. And the  
22 first issue that we'd like to talk about is  
23 an incredibly important issue, a competitive  
24 issue relating to the development of



1 shovel-ready sites.

2 Shovel-ready sites are commercial and  
3 industrial sites that have completed the  
4 planning, zoning, surveys, title work and  
5 environmental studies, et cetera, prior to  
6 putting the site up for sale or lease, and  
7 are under the local control or community or  
8 other third party. Shovel-ready sites reduce  
9 the time it takes for a business to begin  
10 construction on a new facility, which reduces  
11 their risk and allows them to become  
12 operational and provide job opportunities to  
13 our residents sooner.

14 Site consultants, especially those  
15 doing searches for advanced manufacturing,  
16 data centers, and warehouse and distribution  
17 facilities, comment on our lack of  
18 market-ready sites. Even though New York was  
19 one of the first states to have a  
20 shovel-ready certification program, we are  
21 losing ground to other states. Currently  
22 New York has 32 shovel-ready certified sites;  
23 South Carolina, by comparison, has 65 such  
24 sites.

1                   Late last fall our organization  
2 surveyed our members to identify potential  
3 sites. The survey sought specific  
4 information and data on comprehensive  
5 criteria. Our survey identified an  
6 additional 42 sites in the state that meet  
7 the criteria.

8                   We are not asking the state to fund  
9 the entire share of developing these sites.  
10 Funding partners typically include the  
11 community, an IDA, a utility, and if the site  
12 is privately owned, a developer. But the  
13 state's involvement is important, especially  
14 with funding up-front planning and  
15 engineering costs.

16                   Importantly, ESD has a shovel-ready  
17 certification program now. It just lacks  
18 resources to support any sites that could  
19 become shovel-ready. And that is why we are  
20 urging the Legislature and the Governor to  
21 provide \$50 million of funding over four  
22 years to begin another round of shovel-ready  
23 site certification grants.

24                   The second program we would like to

1 talk about is a program that's been discussed  
2 pretty extensively in this hearing this  
3 morning, and that is RESTORE NY.

4 The RESTORE NY Communities Initiative  
5 provides municipalities with financial  
6 assistance for revitalization of commercial  
7 and residential properties. The program  
8 encourages community development and  
9 neighborhood growth through the elimination  
10 and redevelopment of blighted structures. It  
11 directs funding where it is most needed, for  
12 projects involving the demolition,  
13 deconstruction, rehabilitation, or  
14 reconstruction of vacant, abandoned,  
15 condemned or surplus properties. There is  
16 also a strong emphasis placed on projects in  
17 economically distressed communities.

18 In 2006 the RESTORE NY program was  
19 created and received an initial funding of  
20 \$300 million, and that was allocated over a  
21 three-year period through three rounds of  
22 funding.

23 Two years ago the Legislature added  
24 \$25 million to the final State Budget to fund

1 a new round of RESTORE NY grants. And on  
2 January 26th, this year, Governor Cuomo  
3 announced the awarding of \$40 million of  
4 RESTORE grants to 75 municipalities.

5 The \$75 million that we are  
6 recommending would fund a fifth round of  
7 RESTORE NY grants and would continue the  
8 success of the program. This is one of the  
9 state's most important economic development  
10 programs. It has been successful every time  
11 there has been a round. And we think it  
12 should be funded again.

13 I'm going to ask Alison to talk about  
14 a very important topic for us, workforce  
15 development. Alison?

16 MS. LANDS: Thank you.

17 The availability of a skilled  
18 workforce is the number-one site selection  
19 factor for businesses deciding where to  
20 locate facilities, according to Site  
21 Selection Magazine. Companies considering  
22 New York as a place to invest -- and the site  
23 selection firms they hire to represent  
24 them -- work closely with NYSEDC's members to

1 identify where and how to grow their  
2 footprint within our state economy.

3 Based on our members' collective  
4 experience, we recognize that successful and  
5 sustainable economic development efforts  
6 require collaboration across multiple sectors  
7 of physical, economic, and workforce  
8 development. Imbalances within this  
9 portfolio prevent New York State from  
10 optimizing its investments in growth, which  
11 is why it is important to note that although  
12 site selection professionals have come to  
13 value the quality of a state's labor shed  
14 above all other factors, New York State lacks  
15 a source of flexible workforce funding to  
16 bring economic and workforce development  
17 stakeholders together.

18 I'll point out that the January issue  
19 of Site Selection Magazine has its annual  
20 State of the States Comparison Report, and in  
21 that report New York ranked eighth out of  
22 nine Northeast states in our region in terms  
23 of our workforce competitiveness.

24 Given the substantive resources

1 devoted to site preparation, statewide  
2 marketing and attraction efforts, and  
3 structuring business incentive packages, the  
4 ability to invest in the human-capital  
5 component of the location strategy equation  
6 would enhance and make more responsive  
7 New York's economic development toolset.

8           New York State Economic Development  
9 Council supports NYATEP's -- the New York  
10 Association of Training and Education  
11 Professionals, who you'll hear from  
12 shortly -- objectives of identifying flexible  
13 funds for sector-based workforce training  
14 that is connected to employment, as well as  
15 their goal of enhancing local cross-sector  
16 collaboration between economic and workforce  
17 developers to serve the changing needs of  
18 industry across New York.

19           To that end, the council recommends  
20 identifying flexible funds that can be  
21 awarded through the Regional Economic  
22 Development Council process and used to  
23 capitalize regional workforce development  
24 skills training funds.

1                   These flexible resources could be used  
2                   to fund workforce solutions that are aligned  
3                   with economic development projects at the  
4                   regional level, and such funding could be  
5                   administered by a provider within each  
6                   region, with oversight from a board of  
7                   directors consisting of both economic  
8                   development and workforce investment board  
9                   leadership. Together they possess intimate,  
10                  meaningful insight into the skills gaps and  
11                  employer needs at a localized level.

12                  By permitting greater flexibility in  
13                  the development of capital projects to  
14                  accommodate the critical worker and labor  
15                  shed components of economic development,  
16                  citizens within New York's regions will be  
17                  able to take an active role in the  
18                  investments enacted through the REDCs, and  
19                  will gain access to training that will not  
20                  only improve their own earning capacity, but  
21                  will also support the success of the economic  
22                  development projects in progress, while  
23                  strengthening the draw of New York State as a  
24                  place to do business in the future.

1                   MR. McMAHON: And the last issue that  
2 we want to talk about is an issue that we've  
3 discussed before relating to the treatment of  
4 assessed property under PILOTs and the tax  
5 cap. Very important issue for economic  
6 development, very important issue for school  
7 districts.

8                   Typically, IDAs take bare title to  
9 property and extend their tax-exempt status  
10 to the beneficial owner of the project  
11 property. The IDA then enters into a PILOT  
12 agreement with the project owner, which  
13 generates new revenue for local taxing  
14 jurisdictions. However, new growth that is  
15 subject to an IDA PILOT agreement is excluded  
16 from the calculation for determining a  
17 jurisdiction's quantity change factor, and  
18 thus its tax base growth factor.

19                   Consequently, communities that are  
20 successful in attracting new economic growth  
21 through incentives provided by an IDA are  
22 penalized, thereby preventing taxing  
23 jurisdictions, and especially school  
24 districts, from factoring this growth into



1 the calculation for determining the tax levy  
2 limit.

3 Our written testimony includes a chart  
4 showing the impact to local taxing  
5 jurisdictions in a typical IDA transaction.  
6 It is considerable. Using a PILOT agreement  
7 that mirrors a 485-b exemption for a  
8 \$10 million project, the impact over 10 years  
9 is more than \$2 million. Recognizing that  
10 the average IDA project investment is  
11 \$18 million -- and there are approximately  
12 4600 IDA projects throughout the state -- the  
13 overall impact of this exclusion to taxing  
14 jurisdictions is indeed quite significant.

15 In 2015, legislation was introduced by  
16 Senator O'Mara and Assembly Majority Leader  
17 Morelle to address this inequity also. Two  
18 years ago, the Legislature included in the  
19 final budget agreement a requirement for the  
20 Department of Tax and Finance to, and I  
21 quote, "as appropriate, promulgate rules and  
22 regulations regarding the calculation of the  
23 quantity change factor, which may adjust a  
24 calculation based on the development on

1 tax-exempt land." Nothing has been done with  
2 that provision, and I suspect nothing will  
3 be.

4 Adding to this is the inconsistency of  
5 not allowing property subject to a PILOT to  
6 be included in the tax base growth factor,  
7 but allowing properties subject to 485-b of  
8 the Real Property Tax Law to be included.  
9 485-b requires taxing jurisdictions that have  
10 not opted out of the program to provide an  
11 as-of-right 50 percent real property tax  
12 exemption for any commercial investment  
13 greater than \$10,000. The exemption ramps  
14 down 5 percent a year, for 10 years, at which  
15 time the property is fully taxable.

16 So for all of these reasons, our  
17 organization recommends amending the  
18 2 percent real property tax cap to require  
19 property subject to a PILOT to be included in  
20 the tax base growth factor, as specifically  
21 contained in the O'Mara/Morelle legislation.

22 That concludes our testimony.

23 CHAIRWOMAN YOUNG: Thank you very  
24 much, Mr. McMahon and Ms. Lands, and we

1 appreciate you being here.

2 I do have a quick question about your  
3 last proposal. If that were to happen, would  
4 that mean that others in the taxing  
5 jurisdiction who are not subject to a PILOT  
6 would have to pay increased taxes?

7 MR. McMAHON: It would. There would  
8 be a slight tax increase for sure.

9 But these projects -- I mean, when a  
10 project locates in a community, the community  
11 bears costs related to that project. It  
12 might be infrastructure, the school district  
13 might have to educate students from families  
14 that work for those businesses. And, you  
15 know, how do you compensate for those costs?

16 So I think local taxing jurisdictions  
17 I think are kind of getting -- I think a lot  
18 of money is being left on the table that  
19 could be applied to our school districts,  
20 could be applied to our municipalities, for  
21 infrastructure and other costs related to the  
22 projects.

23 The other thing, Senator, that it has  
24 done, it has caused enormous tension between

1 primarily school districts and economic  
2 development organizations simply that didn't  
3 exist before this. There's always contention  
4 or usually contention when IDAs are  
5 considering projects. School districts  
6 understand what the impacts are. So, you  
7 know, we want to eliminate that tension, and  
8 we think this would. And it would do it  
9 fairly, too.

10 CHAIRWOMAN YOUNG: Thank you.

11 CHAIRMAN FARRELL: Assemblyman  
12 Bronson.

13 ASSEMBLYMAN BRONSON: Thank you.

14 I want to follow up on the workforce  
15 development piece of your testimony. Last  
16 year NYATEP estimated that the REDCs invested  
17 just over 1 percent in workforce development  
18 programs. And as you indicated in your  
19 testimony, their recommendation is that we  
20 have more employer-driven workforce  
21 development projects. Could you explain to  
22 me, when you say employer-driven -- well, let  
23 me put this in context.

24 So I look at workforce development as

1           addressing a number of issues. One of them  
2           is addressing the middle-skills gap. Right?  
3           Another one is making sure that we have job  
4           training programs that match either new  
5           emerging workforces or expanding workforces.  
6           And then the fourth area would be to make  
7           sure that we have job training for those who  
8           are hard to place in employment --  
9           disconnected youth in our urban settings, if  
10          you will, neither connected to a job or  
11          connected to education in any regard.

12                        So given your review of the economic  
13          development programs over the last few years,  
14          where do you see the workforce development  
15          programs in that context? And how do you see  
16          having employer-driven workforce development  
17          improve on what we've been doing?

18                        MS. LANDS: I would say the feedback  
19          from our members mirrors your observations  
20          about the key areas of priority with respect  
21          to workforce development, that being closing  
22          the middle-skills gap or securing  
23          middle-skill jobs and closing the gap between  
24          the number of available workers and the

1 number of opportunities that are available  
2 in, say, an industry such as advanced  
3 manufacturing. As well as looking at  
4 marginalized or challenging populations with  
5 obstacles or barriers to employment, and then  
6 also addressing the needs of jobs that we  
7 don't quite know what they look like yet but  
8 we know that they're emerging.

9           With respect to employer-driven  
10 workforce development, I think, you know,  
11 having worked closely with NYATEP on this  
12 issue, there's a very physical focus to  
13 economic development in terms of our capital  
14 investments in the projects that we do. And  
15 I guess based on the rankings that we have  
16 right now, which are partially taking a look  
17 at workforce development as a percentage of  
18 total economic development budget, it would  
19 be nice to see a bit more balance and an  
20 ability to flexibly address the human-capital  
21 element of investments.

22           And by employer-driven, you know,  
23 typically, to us, that means actually  
24 consulting with industry on the needs,

1           credentialing, skill sets, and career paths  
2           that are needed and are in the most demand  
3           and then working with educational partners  
4           and training partners to make sure that the  
5           programs that are developed and funded mirror  
6           what the needs are out in the communities.  
7           So that we're training individuals for  
8           opportunities that really exist and that  
9           they'll be meeting the needs of the employer  
10          right on the nose.

11                   ASSEMBLYMAN BRONSON:  And so as I  
12          understand your testimony, then, you are  
13          looking at not the employer actually doing  
14          the job training, in most instances, but that  
15          it would be in partnership with job training  
16          organizations, nonprofits, and educational  
17          institutions like the community colleges  
18          across the state and things of that nature?

19                   MS. LANDS:  I think in general it's a  
20          flexible model.  It could be any combination  
21          of those different options.

22                   But without direct employer input --  
23          in some cases, in prior experience before  
24          joining the council, this meant that an

1           employer actually had a training model that  
2           needed to be expanded and scaled and they  
3           couldn't do it in-house. So we ended up  
4           using workforce development resources that  
5           could help them scale their program, but do  
6           so in a way that met their exact training  
7           needs, as opposed to reinventing a program  
8           organically.

9                        I think there's a lot of options  
10           there. And at the moment the challenge is  
11           identifying a flexible way to use funds so  
12           that as you're building a project and  
13           attracting a prospect, you're also able to  
14           address the workforce side of the house.  
15           Which is an investment that stays in the  
16           community regardless of what the prospect  
17           does during or after the term of the  
18           incentive.

19                       ASSEMBLYMAN BRONSON: Well, I'm  
20           encouraged by your perspective on this. It's  
21           something I've been trying to advance for a  
22           number of years.

23                       The one aspect I would suggest to  
24           consider, especially if you're looking at the



1 hard-to-place worker, versus just advancing  
2 additional skills -- you know, a lot of these  
3 jobs are entry-level jobs but they're  
4 requiring higher skills than what would have  
5 been required at an entry-level job a decade  
6 or two decades ago.

7 But also that some of the folks who  
8 are hard to place, their situation -- you  
9 know, they have additional barriers, barriers  
10 of transportation and other things. So one  
11 of the things we've been talking about in my  
12 area, in Rochester, is creating coaches or  
13 mentors to work alongside or be available to  
14 these workers not only during the training  
15 programs but also for a number of years after  
16 they're placed in the job. So that they can  
17 help them work through barriers that may come  
18 up, like childcare or transportation or, you  
19 know, trauma that's happening in their homes,  
20 that kind of thing.

21 So I would ask you to think a little  
22 bit about, you know, the mentoring approach  
23 to help folks be successful once employed.

24 MS. LANDS: Thank you.

1 ASSEMBLYMAN BRONSON: Thank you.

2 CHAIRMAN FARRELL: Senator?

3 CHAIRWOMAN YOUNG: Anyone else?

4 SENATOR KRUEGER: Thank you.

5 CHAIRWOMAN YOUNG: Thank you very  
6 much.

7 MS. LANDS: Thank you.

8 CHAIRMAN FARRELL: Thank you.

9 CHAIRWOMAN YOUNG: Appreciate you  
10 coming. And thank you for all that you do  
11 for jobs and economic development in this  
12 state.

13 And good luck to both of you, also.  
14 Congratulations.

15 MS. LANDS: Thank you.

16 CHAIRWOMAN YOUNG: Our next speaker is  
17 President and CEO Jo Wiederhorn, Associated  
18 Medical Schools of New York.

19 Welcome.

20 MS. WIEDERHORN: Good afternoon.

21 CHAIRWOMAN YOUNG: Good afternoon.

22 CHAIRMAN FARRELL: Good afternoon.

23 MS. WIEDERHORN: I wanted to thank  
24 you, Chairman Farrell, Chairwoman Young, and

1 the rest of the legislative body who's here.

2 I really appreciate this time to testify.

3 My name is Jo Wiederhorn. I'm the  
4 president and CEO of the Associated Medical  
5 Schools of New York. AMSNY is the consortium  
6 of New York State's 16 medical schools. We  
7 represent public and private schools  
8 throughout the state. There are four SUNY  
9 schools, one City University of New York  
10 school, and the rest are all private schools.

11 And in a survey that we did in 2010, a  
12 study that we had commissioned, the academic  
13 medical centers provided \$85 billion towards  
14 the state's economy. One out of every \$7  
15 that the state put into research in the state  
16 provided -- for every \$1 that the state put  
17 into research, there was a \$7 return. And  
18 also one out of every 13 jobs within the  
19 state is associated with healthcare. Now,  
20 that was an old study that was from 2010, and  
21 I'm sure if we redid it at this point in  
22 time, those numbers would go up.

23 I'm here today because I wanted to  
24 talk to you about two issues that I think are

1 really important to the state's economy. One  
2 is the investment in scientific talent. And  
3 this is really important because, as the  
4 state moves towards other new economies, this  
5 is one of the largest growing economies in  
6 the country. And the other one is, as people  
7 have been talking about, a workforce issue  
8 that we have within the state.

9 First of all, though, I just want to  
10 give you a little bit of history. I know  
11 that some of my colleagues have been here in  
12 the past, but this is something that is  
13 extremely important to us in terms of  
14 scientific talent.

15 Over the past decade, states across  
16 the country have been investing in biomedical  
17 research, in particular in the recruitment  
18 and retention of their star scientists.  
19 California and Texas both put in \$3 billion  
20 towards this; Massachusetts put in  
21 \$1.5 billion, Connecticut \$2.5 billion. And  
22 in the meantime, smaller states have also  
23 contributed.

24 And just as an aside, I thought you

1           might be interested to know that when Mike  
2           Spence was the governor of Indiana, he was  
3           actually given the Biotech Governor of the  
4           Year Award for putting funds into their one  
5           University of Indiana Medical School for the  
6           recruitment and retention of bioscientists.

7                        So actually, as I had mentioned, my  
8           colleagues have been coming up here, we have  
9           been coming up here now for a number of years  
10          asking for \$50 million a year for 10 years  
11          for what we call the NY FIRST program. This  
12          program would help in the recruitment of  
13          faculty so that we could in fact develop new  
14          laboratories for the development of new  
15          discoveries. New discoveries in the basic  
16          science field are what really drives what  
17          happens when you're looking at new  
18          treatments, new cures.

19                       We need these funds in order to be  
20          able to compete with other states. Our  
21          ability to do so has been decreasing over the  
22          past couple of years.

23                       This year the Governor did in fact put  
24          in \$650 million into his budget for a Life

1 Sciences Initiative. Two hundred million  
2 dollars of that is to go for state capital  
3 grants, and \$100 million is in an investment  
4 capital fund. But to date, there has been no  
5 particular line item that has been pulled out  
6 for the recruitment and retention of faculty.  
7 We have been told that this is something that  
8 was meant to be part of this, but we'd like  
9 to see the proof in the pudding here.

10 So what we are asking for from the  
11 Legislature this year is to line out  
12 \$50 million that can be used for this  
13 particular purpose. Part of this can be for  
14 capital funds, and part of it would be for  
15 the recruitment of not the head PIs for the  
16 grants but, rather, for their postdocs and  
17 young researchers, to help build our capacity  
18 here in the state.

19 So the medical schools have made two  
20 commitments related to these funds. One is  
21 that for every dollar the state puts in, the  
22 medical schools will match it on a two-to-one  
23 basis. So for \$50 million, if the state were  
24 to put in \$50 million, it would truly be a

1           \$150 million fund.

2                   The other one is the commitment that  
3 we would not be using these funds in order to  
4 support the salaries of what we call the star  
5 researchers. Those salaries would be part of  
6 the two-to-one match.

7                   I know that in the past some of my  
8 colleagues have talked about the old faculty  
9 development program. This program, the state  
10 put in \$38 million to recruit similar types  
11 of faculty. There was a \$250 million return  
12 on that. And we have examples from across  
13 the state of people who are still working  
14 here who have developed labs, have developed  
15 spinoff companies, they've applied for  
16 patents, they've made discoveries, they've  
17 won some of the highest scientific awards in  
18 the country.

19                   So we really believe that this is an  
20 investment in institutions that have been  
21 here, some of them for a couple of hundreds  
22 of years. They're not going to pick up and  
23 leave. They will stay here, they will  
24 support their local communities. The jobs

1           that will be created are, on an average,  
2           about \$83,000 a year. They come with full  
3           benefits; oftentimes they come with  
4           educational benefits.

5                     Our second ask relates more to health,  
6           and it relates actually more to workforce.  
7           And this is more of a piece of information.  
8           We have been supporting a Diversity in  
9           Medicine program where we train students who  
10          would like to go into medicine but need an  
11          extra year of academic support. We've been  
12          sending them to post-bacc programs. These  
13          are very unusual post-baccalaureate programs,  
14          in that the students have to apply to the  
15          medical school, the medical school then  
16          refers them to one of our programs. And if  
17          they successfully complete it, they have a  
18          guaranteed admission to medical school the  
19          next year. So they don't have to repeat  
20          taking the MCAT test or going through the  
21          whole application process again.

22                     We have four of those programs. Three  
23          of them also provide master's degrees. This  
24          is really important, because if they decide



1 not to go to medical school or they don't  
2 quite make it to medical school, they  
3 complete the program, they still get a  
4 master's in science and they're able to work  
5 in industry or in other areas.

6 We have very high success rates with  
7 these programs. Over the past couple of  
8 years, we've been funded through HCRA and  
9 we've been funded at \$1.6 million, which is a  
10 cut from what our high was in 2008. That was  
11 cut due to the recession. This year the  
12 Governor threw all of those workforce  
13 programs into a pool, and now we have to do  
14 the Hunger Games and compete for the program,  
15 and there's a 20 percent cut.

16 What we would really like to have the  
17 Legislature do is go back again to lining us  
18 out, having us at \$1.6 million. Our primary  
19 goal would be to have you restore the money  
20 so we get \$2 million again, because we had to  
21 cut three programs when we lost that funding.  
22 But we definitely want to be lined out with  
23 no cut. There's a 20 percent cut now from  
24 what the Governor has given us.



1 appreciate your support.

2 CHAIRMAN FARRELL: Questions?

3 CHAIRWOMAN YOUNG: Thank you so much  
4 for your participation and your input. We  
5 truly appreciate it. Very valuable.

6 MS. WIEDERHORN: Thank you.

7 SENATOR KRUEGER: Thank you very much.

8 CHAIRMAN FARRELL: Thank you.

9 CHAIRWOMAN YOUNG: Our next speaker is  
10 Executive Director Melinda Mack, New York  
11 Association of Training and Employment  
12 Professionals.

13 Welcome.

14 MS. MACK: How are you?

15 CHAIRWOMAN YOUNG: I'm great, how are  
16 you?

17 MS. MACK: Good, thank you.

18 Good afternoon, and thank you for  
19 having me this afternoon. And again, I  
20 apologize to Senator Savino and Senator  
21 Young; you're going to probably hear some of  
22 the things you heard during the workforce  
23 testimony as well, so I apologize for any  
24 repeats.

1                   My name is Melinda Mack. I represent  
2                   the New York Association of Training and  
3                   Employment Professionals. We're a statewide  
4                   membership association that is made up of  
5                   education and training providers, including  
6                   BOCES programs, community colleges, workforce  
7                   development boards, a range of  
8                   community-based organizations and others.

9                   Collectively, we serve close to a  
10                  million New Yorkers and really sort of bring  
11                  in close to half a billion dollars in  
12                  workforce resources to the state in terms of  
13                  federal funds and federal resources.

14                 I'm here today to talk about the lack  
15                 of resources available to do workforce  
16                 development at the state level. As many of  
17                 you know, or as you've heard throughout the  
18                 day today -- I did listen in on Howard  
19                 Zemsky's testimony -- workforce development  
20                 continues to be a primary focus of many of  
21                 the economic development initiatives  
22                 statewide. However, the focus does not  
23                 translate to funding in the Governor's  
24                 budget.

1                   One of the areas that we're  
2                   specifically interested in thinking more  
3                   creatively about the Regional Economic  
4                   Development Council resources and the URI  
5                   resources. I do want to make a  
6                   clarification; I did hear Howard Zemsky talk  
7                   about the investment in workforce development  
8                   related to the URI. In going back and  
9                   looking through those reports, I saw them to  
10                  be nominal at best. I think I sort of  
11                  calculated less than \$10 million in actual  
12                  job training.

13                  So again, I think the focus versus  
14                  funding is something that we continue to  
15                  struggle with.

16                  That being said, we do have some  
17                  solutions or some proposals that we wanted to  
18                  put forward. And part of this does relate to  
19                  Assemblymember Bronson's comments prior about  
20                  issues related to funding support and  
21                  services, specifically for the lower-skilled.

22                  As you'll see on page 2 of my  
23                  testimony, I've included some recent data  
24                  that describes the lack of educational

1 attainment for many New Yorkers. The recent  
2 American Community Survey has detailed that  
3 40 percent of New Yorkers have a high school  
4 diploma or less. Which means that many of  
5 these folks are not even at the point where  
6 they're able to take advantage of many of the  
7 other investments the state is making into  
8 higher education and community colleges.

9 In terms of solutions, there are three  
10 that I'd like to put forward. And I'd be  
11 happy to take some of your questions as well.

12 The first is around establishing a  
13 statewide training fund. As my colleagues at  
14 the New York State EDC mentioned, we're very  
15 interested in flexible resources, because  
16 currently our system is propped up by --  
17 primarily through federal funding. Federal  
18 funding, as you are aware, comes with very  
19 strict requirements and sort of application  
20 mechanisms, and so ultimately we're not able  
21 to meet the employer needs and demands as  
22 quickly or as relevantly as we'd like. And  
23 so, again, we're looking to think about ways  
24 to be flexible.

1                   We know that each year the Legislature  
2                   typically adds back anywhere between  
3                   \$5 million and \$12 million into the budget  
4                   for specific projects related to workforce  
5                   development. We'd like you to consolidate  
6                   those efforts into a statewide skills  
7                   training fund to make it a more equitable  
8                   distribution of those resources across the  
9                   state.

10                   Second, the idea that -- we've  
11                   expanded on it in our testimony here on  
12                   page 4, is around expanding the uses of  
13                   Empire State's Regional Council Capital  
14                   funds. When you look at those capital  
15                   investments, again, as Alison and Brian  
16                   mentioned, those funds are primarily situated  
17                   for capital improvements. We'd like to see  
18                   some flexibility included in those resources  
19                   to allow for human-capital investment.

20                   Specifically we're asking for  
21                   15 percent flexibility across those funds to  
22                   allow for partnerships that are sectorially  
23                   based, cross-section partners of  
24                   community-based organizations, of community

1 colleges, workforce development boards, among  
2 others, to be able to work directly with  
3 businesses to invest in development of  
4 sector-based training programs.

5 If we just modified the rules for  
6 15 percent of that -- it's \$175 million --  
7 we'd have \$26 million that could be accessed  
8 in those regional partnerships for job  
9 training.

10 And then lastly, in support of some of  
11 the work, again, that Assemblymember Bronson  
12 has put forward in previous sessions, we feel  
13 very strongly that we need to establish a  
14 wage data clearinghouse.

15 We're only as good as our data. We  
16 believe very strongly in putting forward  
17 information about the success of education  
18 and training programs, yet the data systems  
19 to collect and distribute that information  
20 have been lacking. And so we're asking the  
21 state to make a nominal investment -- we  
22 estimate it would likely be less than  
23 \$500,000 -- to develop and establish a wage  
24 data clearinghouse.



1                   So with that, I'll take any questions.

2                   CHAIRWOMAN YOUNG: Thank you.

3                   Any questions?

4                   Yes, Mr. Bronson.

5                   ASSEMBLYMAN BRONSON: So could you --  
6                   the wage data clearinghouse is a bill I  
7                   carry, and you've helped me develop some of  
8                   the language. But for purposes of the  
9                   record, could you explain how that would be  
10                  beneficial in matching potential workers with  
11                  actual jobs? I mean, in essence, what are we  
12                  trying to do with that bill?

13                  MS. MACK: Sure.

14                  So wage record data, for folks who are  
15                  unaware, is the data that you would find or  
16                  collect off of your pay stub, which is  
17                  currently maintained by Tax and Finance.  
18                  That information and data, as utilized in  
19                  other states, allows workforce development  
20                  organizations as well as colleges to be able  
21                  to actually understand whether or not  
22                  individuals who went through their training  
23                  programs are employed.

24                  So you would do a data match on the

1 back end that would allow you to be able to  
2 match whether or not a specific individual  
3 was meeting an employment outcome.

4 Why that's really critically important  
5 is, one, the system we have now is us calling  
6 and following up directly with individuals or  
7 with employers to specifically ask whether or  
8 not they're employed. It's a huge waste of  
9 time, it's a huge waste of resources, and  
10 it's anecdotal data, it's not exact data.  
11 And so we'd much rather have that.

12 On the flip side, you can also use  
13 that information and data for research. And  
14 so you're able to take a look at labor shed  
15 and labor patterns. So, for example, if you  
16 have a huge dislocation of home health aides  
17 in a portion of the state, you're able to  
18 take a look at the labor market data and the  
19 wage data and say, okay, we have a mismatch.  
20 We have folks with skills here, we don't have  
21 the jobs related to those skills here. So  
22 how do we start to align some of the  
23 investments we're making in economic  
24 development with the available workforce or

1 labor shed?

2 And so, again, having that resource is  
3 something that many other states have  
4 invested in. Places like Massachusetts,  
5 Pennsylvania, Washington state, California,  
6 you name it, they have pretty robust systems.  
7 And at this point we've been told some  
8 confidentiality barriers would sort of be in  
9 place that wouldn't allow that to happen, but  
10 ultimately I know that those are things we  
11 certainly could work through if other states  
12 have been able to.

13 ASSEMBLYMAN BRONSON: Okay. And we've  
14 been talking about economic development and  
15 you probably heard my statement to  
16 Commissioner Zemsky that, you know, it's nice  
17 to hear about the economy being vibrant and  
18 all those kinds of things, but at the end of  
19 the day, we're really talking about jobs for  
20 our families and jobs for our young people.

21 And if we had a wage clearinghouse and  
22 we also have funding for job training through  
23 the Regional Economic Development Councils  
24 and the other economic development proposals,

1           and we're trying to match to see if we're  
2           expending taxpayer dollars that are either  
3           retaining or creating those jobs, wouldn't a  
4           wage clearinghouse also help us look at how  
5           successful we are in those job retentions and  
6           creations? Because we would also be looking  
7           at the dollar amount that people are earning  
8           and how that matches with being able to  
9           provide for their families, and we'd be able  
10          to really track whether or not these are  
11          long-term jobs versus short-term jobs.

12                         Do you agree with that?

13                         MS. MACK: Absolutely. Absolutely.

14                         And I think, again, for us in the  
15          field who look at the workforce  
16          development -- I'm using air quotes -- for  
17          workforce development investments, we often  
18          are at a loss for whether or not those are  
19          effective. We don't have information or  
20          data, based on the anecdotal evidence as  
21          provided either by the Governor's office or  
22          through press releases or reports. It's a  
23          lot of money that's being invested in  
24          so-called job training programs that we don't

1 know whether or not they're effective.

2 My members primarily implement federal  
3 workforce development training programs.

4 Those federal programs have very specific and  
5 rigid performance requirements which not only  
6 they achieve but overachieve each year. We'd  
7 like the state programs to be held at least  
8 to the same level of accountability.

9 ASSEMBLYMAN BRONSON: Good. And your  
10 response leads me to my last question I'm  
11 going to pose to you, and that is what is  
12 your observation on what's happening at the  
13 federal level and what might happen with the  
14 WIOA dollars that pass through the federal  
15 into the state and then we get them to the  
16 programs? Have you analyzed what's happening  
17 at the federal level and what that impact may  
18 be here in the State of New York?

19 MS. MACK: Yeah, absolutely. In fact  
20 I'll be in DC next week meeting with the  
21 transition team for the Trump administration  
22 specifically about workforce dollars.

23 What we're deeply concerned about is  
24 seeing some pretty tremendous cuts to federal

1 workforce funding. We get about 340-ish  
2 million dollars in federal funding each year  
3 from the federal government specifically for  
4 education, job training and employment.  
5 Those funds run through the New York State  
6 Department of Labor as well as State Ed and  
7 then trickle down to the local workforce  
8 development programs.

9 The Heritage Foundation, which is what  
10 we're seeing as being a blueprint right now  
11 for the Trump administration's funding  
12 formulas, it looks to zero out WIOA dollars.  
13 We expect it won't be completely zeroed out,  
14 but even if we're halved, cut in half, the  
15 fight to get back up to just the level we're  
16 at now will be pretty tremendous.

17 As you know, our federal funding has  
18 been depleted significantly in the last 10  
19 years. In fact, we have 50 percent less than  
20 we did even 10 years ago. So another  
21 50 percent cut would basically put us at a  
22 25 percent sort of operating system.

23 Why this is significant for you all is  
24 the federal funding is what creates the

1 workforce system in the state. That is not  
2 the traditional pipeline. So the K-12 or  
3 college system, that federal money is what  
4 creates the local workforce development  
5 training programs, the local workforce boards  
6 and those local collaborations. And so we'd  
7 be at quite a loss.

8 I also wanted to mention that the H-1B  
9 visa program, which we also recognize may be  
10 reduced, specifically related to some of the  
11 president's immigration strategies, the  
12 funding for those H-1B visas is actually  
13 funding that's utilized to train workers  
14 across the state and has been -- the New York  
15 State Department of Labor has been successful  
16 in getting many of those awards in the last  
17 couple of years. So any reductions in those  
18 visas will also mean a reduction in resources  
19 at the federal level.

20 ASSEMBLYMAN BRONSON: Okay. Thank you  
21 very much.

22 MS. MACK: Thank you.

23 CHAIRWOMAN YOUNG: Anyone else?

24 Okay, thank you very much. We

1 appreciate your participation.

2 I did accidentally skip over the  
3 American Institute of Architects New York  
4 State, Randolph Collins, CSArch  
5 president/founding principal, and I think  
6 he's joined by -- is it Michael Burrridge,  
7 director of government affairs.

8 Thank you for being here today.

9 MR. COLLINS: Good afternoon.

10 MR. BURRIDGE: Thank you for having  
11 us.

12 Good afternoon. My name is Michael  
13 Burrridge, director of government affairs for  
14 the American Institute of Architects New York  
15 State. With me today is Randy Collins, who  
16 is president and founding principal of  
17 CSArchitecture, Engineering and Construction  
18 Management.

19 On behalf of the American Institute of  
20 Architects New York State Board of Directors  
21 and our membership, we would like to thank  
22 Chairwoman Young, Vice Chair Savino, and  
23 Chairman Farrell for allowing us the time  
24 today to testify on the Executive Budget



1           proposal.

2                       In the interests of time, we want to  
3           just focus on one issue, and that is the  
4           Governor's design/build proposal. This year  
5           the proposal seeks to make design/build  
6           permanent in New York State and extend it to  
7           all state agencies, authorities, SUNY and  
8           CUNY, and counties outside of New York City.

9                       AIA New York State recommends that  
10          certain steps be taken before the scope of  
11          the Infrastructure and Investment Act is  
12          expanded. One of those steps, and it's a  
13          major step, is that the Legislature and the  
14          Governor's office should seriously think  
15          about sitting down with the State Education  
16          Department's Office of the Professions and  
17          talking to them about their position on  
18          design/build as it relates to the licensed  
19          design professions.

20                      Specifically, SED, which is the  
21          licensing and regulatory authority for the  
22          licensed design professions, maintains that  
23          participation in the design/build contractual  
24          arrangement is unethical and in violation of

1 the Education Law. Thus participation in a  
2 design/build contract could expose architects  
3 and other licensed design professionals to  
4 charges of professional misconduct.

5 There is case law on this matter which  
6 seems to confirm the legality of  
7 design/build, yet there is no specific  
8 statutory authorization for the licensed  
9 design professions under the Education Law.

10 So we do -- and also the State Design  
11 Boards representing the State Boards for  
12 Architecture, Engineering, Land Surveying,  
13 and Landscape Architecture, they do have a  
14 position paper on design/build which lays out  
15 how they see design/build should be practiced  
16 in New York State, which would in line and in  
17 compliance with Education Law.

18 Our second major recommendation is to  
19 consider other alternative delivery methods  
20 that are currently being used across the  
21 country. And at this time I'm going to turn  
22 it over to Mr. Collins, who's going to  
23 explain that issue.

24 MR. COLLINS: Good afternoon.

1                   Again, my name is Randy Collins. I am  
2                   an architect in practice for about 40 years  
3                   here in Albany and have been involved in a  
4                   lot of public projects where the current law  
5                   requires that public owners procure capital  
6                   projects, buildings, using the  
7                   design-bid-construct project delivery method.

8                   The Governor is recommending that  
9                   design/build become an alternative project  
10                  delivery method to the current method.

11                  We think that the best way to ensure  
12                  delivery of quality facilities in an  
13                  expeditious and cost-effective manner is to  
14                  provide public owners with project delivery  
15                  flexibility. Right now they really don't  
16                  have flexibility. This allows a public owner  
17                  to conduct a thoughtful, proactive and  
18                  objective assessment of the unique  
19                  characteristics of its project and the  
20                  ability to align the procurement plan with  
21                  the appropriate project delivery method.

22                  There are several alternative project  
23                  delivery methods that should be considered in  
24                  conjunction with design/build, which promote

1 early collaboration between the builder and  
2 the design professional and provide the state  
3 with the efficiency it desires.

4 So construction manager as  
5 constructor, also known as CM at-risk, is  
6 another viable project delivery method that  
7 we are advocating for. This method is  
8 currently being used successfully for  
9 privately funded projects in New York State  
10 as well as other states across the country.

11 We believe that construction manager  
12 as constructor is better suited than  
13 design/build for vertical construction. By  
14 vertical construction we mean buildings. It  
15 eliminates conflicts with current law and  
16 brings the contractor together early with the  
17 licensed design professional during the  
18 design phase.

19 Design phase collaboration is crucial  
20 to ensuring constructability and has the  
21 potential to reduce change orders, expedite  
22 construction services, and reduce barriers to  
23 MWBE participation by providing a review of  
24 trade contract packaging early in the

1 process. Since most MWBEs are  
2 subcontractors, this early identification of  
3 trades contracts allows the CM to identify  
4 qualified MWBEs from whom bids can be  
5 obtained.

6 Within the CMC method, the public  
7 owner contracts -- and this is important --  
8 directly with an architect or engineer, and  
9 then simultaneously contracts directly with  
10 the construction manager at-risk.

11 That's opposed to design/build, where  
12 the architect contracts with the builder. We  
13 believe that this sets up a conflict of  
14 interest and feel that CM as constructor is  
15 more appropriate than design/build for  
16 vertical construction.

17 So this separation of contracts, where  
18 the architect and design professional has a  
19 separate contract, as does the contractor,  
20 does fall within the current practice of the  
21 design-bid-build and complies with the  
22 provisions of the Education Law that govern  
23 the professions.

24 After the design phase, the

1 construction manager would essentially become  
2 the equivalent of a general contractor for  
3 the project and subcontract with all of the  
4 remaining trades contractors -- and assume  
5 financial obligation for construction, either  
6 in the form of a guaranteed maximum price or  
7 a cost-plus-fee contract with the owner.

8 CMC with a cost plus fee would be  
9 essentially an open book providing  
10 transparency, which may not otherwise exist  
11 in design-build.

12 In closing, we want you to know that  
13 AIA New York State has jointly prepared a  
14 draft bill with AGC of New York State --  
15 that's Associated General Contractors -- that  
16 will authorize public agencies to use CM as  
17 constructor, and we'd be happy to share that  
18 with you.

19 Thank you.

20 CHAIRWOMAN YOUNG: Any questions?

21 Well, thank you for sharing today. We  
22 truly appreciate it.

23 MR. COLLINS: Thank you.

24 CHAIRWOMAN YOUNG: Next up we have the

1           Cornell-NYSTAR Centers of Excellence, Centers  
2           of Advanced Technologies.  Joining us will be  
3           Daniel Walczyk, professor, RPI, and director  
4           of New York State Center for Automation  
5           Technologies, and Casey Hoffman, professor,  
6           RPI, and cofounder of Vistex Composites.

7                         Welcome, gentlemen.

8                         DR. WALCZYK:  Good afternoon and thank  
9           you, Chairpersons Young, Farrell and  
10          Schimminger, and members of the Senate  
11          Finance and Assembly Ways and Means  
12          Committees.  I am Dan Walczyk, director of  
13          the Center for Automation Technologies and  
14          Systems at Rensselaer Polytechnic  
15          Institute -- this has been since 2014 -- and  
16          also a professor of mechanical engineering.

17                        Let me give you some background of  
18          myself because I think it's pertinent to this  
19          discussion.  I'm a homegrown technical  
20          talent, I guess you could say.  I grew up in  
21          Syracuse, and I was shaped professionally by  
22          the Center for Automation Technology, a  
23          specific one.  Growing up in Syracuse in the  
24          1960s and '70s, I attended three New York

1 schools -- Onondaga Community College,  
2 Rensselaer Polytechnic Institute, and also  
3 Syracuse University.

4 I worked seven years in industry,  
5 primarily in New York State, including a  
6 machine builder in Syracuse and also GE, both  
7 in Syracuse and in Niskayuna. I went to MIT  
8 for manufacturing research and then postdoc  
9 in Germany, at the Fraunhofer Institute,  
10 dealing with machine tools. Came back to RPI  
11 in 1996 and immediately started working at  
12 the CATS, which is the Center for Automation  
13 Technologies and Systems again.

14 All along the way, I was heartbroken  
15 at the loss of manufacturing and related  
16 industries in New York, especially upstate  
17 and Long Island. As such, I want to thank  
18 the leadership that has helped create the  
19 CATS and also the COEs, the Centers of  
20 Excellence, at Empire State Development and  
21 NYSTAR. Without the leadership of the  
22 Senate, Assembly and Governor's office, I  
23 would not be in a position right now to make  
24 a difference.



1                   The New York State Centers for  
2                   Advanced Technology and Centers of Excellence  
3                   have been around since the mid-1980s, at  
4                   least the CATS. New York State currently  
5                   supports 15 CATS and 11 COEs to advance  
6                   technology from the universities and colleges  
7                   in the state to the private sector to grow  
8                   new companies, create jobs, and help the  
9                   New York economy.

10                   This is similar to the Fraunhofer  
11                   model in Germany, which I took part in for a  
12                   brief period of time, and is relatively  
13                   unique among the states in the U.S. It  
14                   provides prolonged funding, unlike what the  
15                   federal government does.

16                   The aggregated statistics for this  
17                   program over the last five years include  
18                   nearly \$5 billion in economic impact and over  
19                   22,000 new or retained jobs. And this is for  
20                   a relatively modest investment by the state  
21                   of \$26 million.

22                   Let me talk more specifically about  
23                   the Rensselaer CATS. It was founded in 1989  
24                   for 10 years and then redesignated in 1999

1 and again in 2009. We assist New York client  
2 companies with advanced manufacturing,  
3 robotics, and automation to help them meet  
4 their business goals, whatever those are.  
5 Oftentimes we're asked to serve as the  
6 surrogate research and development  
7 departments for these companies because they  
8 don't have the bandwidth or the expertise to  
9 do so.

10 What we do is after de-risking  
11 developments in our labs -- things that they  
12 want to do but they don't have the means to  
13 do -- we offer complete solutions to these  
14 companies by working with what we call system  
15 integrators, which are companies that make  
16 machinery that they can use in their plants.

17 The 10 year statistics for the CATS  
18 that have been reported to the ESD include  
19 \$328 million in economic impact and 1,050  
20 jobs, for about a \$9 million investment by  
21 the state. This is similar to some of the  
22 other CATS.

23 Let me talk a little bit about one  
24 particular company, and then I'm going to

1           turn over the mic to my colleague from Vistex  
2           Composites, Casey Hoffman.

3                       This one company that we've worked  
4           with is called Ecovative Design. They're a  
5           biomaterials company, and they're famous for  
6           mushroom packaging. It started out as two  
7           Rensselaer engineers back in 2007 and has  
8           grown into a 70-person company, high-tech  
9           company, with corporate and R&D facilities in  
10          Green Island and a manufacturing facility in  
11          Troy.

12                      From 2011 to 2015, the CATS worked  
13          with them on five research projects, which  
14          resulted in a new biocomposites material  
15          which is actually their new line of products  
16          that they're selling. They hire many RPI  
17          engineers and scientists, who stay locally,  
18          and it's a reverse of the brain drain that we  
19          hear about in the popular media.

20                      Now I'd like to turn over the mic  
21          again to Dr. Casey Hoffman.

22                      DR. HOFFMAN: Thank you for giving me  
23          the opportunity to speak here today. As Dan  
24          mentioned, my name is Casey Hoffman, and I'm

1           one of the cofounders of Vistex Composites,  
2           an advanced manufacturing company that has  
3           developed new ways of turning high-strength  
4           composite materials, like carbon fiber, into  
5           products that benefit society, like safer  
6           helmets and lighter, more fuel-efficient  
7           vehicles.

8                         I would not be here speaking today  
9           before you if it were not for the RPI CATS  
10          and other programs like it across the state.  
11          Vistex got its start while working within the  
12          RPI CATS, along with funding with NYSERDA,  
13          approximately five years ago. And we  
14          continue to work with both of those  
15          organizations to this day.

16                        This partnership with RPI, and  
17          specifically the RPI CATS, provides our  
18          business with access to cutting-edge  
19          equipment and top-notch faculty and staff  
20          that has helped us to grow and attract  
21          startup investment as well as customers.  
22          Their experience and guidance in solving  
23          technical problems helps us, as a small  
24          startup, to avoid many of the mistakes that

1 other companies before us have made. And  
2 more importantly, their widespread  
3 connections to both academia and industry  
4 partners have made finding the right person  
5 to help us solve our technical problems more  
6 effective.

7 I came here today to say thank you for  
8 helping to create Vistex through your past  
9 support of programs like the CATS and hope  
10 that this support can continue in the future  
11 so that other companies like Vistex can get  
12 their start in the future.

13 Thank you.

14 DR. WALCZYK: Thank you, Casey.

15 In closing, I want to thank you again  
16 for supporting both the Center for Advanced  
17 Technology and Center of Excellence programs.  
18 As I mentioned, Rensselaer is proud to have  
19 contributed \$328 million to the New York  
20 State economy, with the state's \$9 million  
21 investment, but we are just one piece of the  
22 almost \$5 billion contributed by all the  
23 Centers.

24 I'm not sure -- on a personal note,

1 I'm not sure if the Trump administration's  
2 approach to revitalization of domestic  
3 manufacturing will work as intended. The  
4 New York State model, which includes both the  
5 CATS and the COEs, predates the National  
6 Network of Manufacturing Institute or  
7 Manufacturing USA approach that was put forth  
8 by the Obama administration and, in my  
9 opinion, is the most effective approach due  
10 to the long-term funding.

11 Recognizing the promising economic  
12 impact of the Centers while acknowledging the  
13 demands on state resources, we request that  
14 each Center be funded at a \$1.6 million level  
15 in state fiscal year 2017-2018 budget in  
16 order to magnify the returns on investment  
17 already achieved through the CAT and COE  
18 programs.

19 I welcome any questions that you may  
20 have. Thank you.

21 CHAIRWOMAN YOUNG: Thank you very  
22 much.

23 Senator Krueger has a question.

24 SENATOR KRUEGER: Hi. Thank you.

1                   So it's 26 Centers. So if we jump to  
2                   \$1.6 million each, how much would be your  
3                   budget request?

4                   DR. WALCZYK: I think it's --

5                   SENATOR KRUEGER: Close to 50, or 45?

6                   DR. WALCZYK: -- \$18 million.

7                   SENATOR KRUEGER: I'm sorry?

8                   DR. WALCZYK: Eighteen million.

9                   SENATOR KRUEGER: Eighteen million.

10                  DR. WALCZYK: Yeah. I wish I were a  
11                  human calculator, but I'm not.

12                  SENATOR KRUEGER: And where does the  
13                  funding come from now? Is it through the  
14                  ESDC budget?

15                  DR. WALCZYK: Through ESD, yes.  
16                  Empire State Development budget. Through  
17                  their NYSTAR program.

18                  SENATOR KRUEGER: Got it.

19                  So some of us, including me, have been  
20                  quite critical of the START-UP NY program,  
21                  which has been renamed but was targeted to  
22                  university settings. Somebody who testified  
23                  maybe three or four testifiers before you  
24                  made the argument that actually it's been

1 very valuable to have the START-UP program  
2 affiliated with the colleges and drawing down  
3 on students and interns and et cetera.

4 You're college-based, right? All of  
5 your Centers are college-based?

6 DR. WALCZYK: Yes. Or university-  
7 based.

8 SENATOR KRUEGER: So what's been your  
9 experience in coordinating or working with  
10 START-UP NY?

11 DR. WALCZYK: To be honest with you,  
12 we really haven't done much with START-UP NY.

13 SENATOR KRUEGER: So you really  
14 weren't working with them at all.

15 DR. WALCZYK: Our specific university,  
16 no.

17 SENATOR KRUEGER: No.

18 DR. WALCZYK: We had considered it,  
19 but really I don't know much about -- I know  
20 about the program, but we haven't done much  
21 with it to date.

22 SENATOR KRUEGER: So how do these  
23 companies find you?

24 DR. WALCZYK: We have business



1 development directors who go out and  
2 cold call or network or attend conferences.  
3 Sometimes these companies come to us because  
4 they hear about us. We should probably do a  
5 better job of advertising that we exist.

6 But so far we've done pretty well on  
7 the return on investment, and with the  
8 additional resources, we would be able to do  
9 even more.

10 SENATOR KRUEGER: And state money  
11 isn't your only money, you also get paid by  
12 these companies?

13 DR. WALCZYK: We have contracts,  
14 research contracts with the companies. We  
15 also go after third-party funding, federal  
16 and state, foundation -- whatever makes sense  
17 for the particular industry that we're  
18 working in.

19 Our CAT works in manufacturing,  
20 robotics, automation, so there are pots of  
21 money at the federal and state level for  
22 that. But a major part of the funding does  
23 come from the companies.

24 SENATOR KRUEGER: So what would be the

1 total funding for all of these Centers on an  
2 annual basis if you combined --

3 DR. WALCZYK: It would be 27 plus 18.

4 SENATOR KRUEGER: I'm sorry?

5 DR. WALCZYK: Twenty-seven million  
6 currently, plus the 18 million ask.

7 SENATOR KRUEGER: Oh, plus the  
8 hoped-for 18 million from the state.

9 DR. WALCZYK: Yes.

10 SENATOR KRUEGER: Got it.

11 And do any of these contracts with  
12 businesses translate into, if they're  
13 successful, where you end up with either  
14 sharing of patents or stock shares in their  
15 businesses?

16 DR. WALCZYK: It varies from  
17 university to university. But for example,  
18 with Vistex, there was -- RPI could have  
19 patented and licensed it out. They chose not  
20 to because it didn't fit into the portfolio  
21 of technologies they wanted to promote. So  
22 that allowed the current sponsor to -- and  
23 RPI individuals to patent it separately, and  
24 then it turned into a business.

1                   Many times RPI will pay for the patent  
2                   costs and then license the technology to a  
3                   company. Sometimes the company brings in  
4                   their own IP, and so it's moot. So there's  
5                   many different situations. You know, think  
6                   of any permutation thereof, and it's been  
7                   done.

8                   DR. HOFFMAN: I can add a comment to  
9                   that.

10                  As I mentioned, Vistex grew out of the  
11                  RPI CAT, so -- and we're also a startup  
12                  company who is not participating in the  
13                  START-UP NY program. So kind of along with  
14                  the comments I made.

15                  One thing I think we could stress here  
16                  is the fact that as a small business, you  
17                  know, at the time -- over the past few years,  
18                  we've been primarily two cofounders. The tax  
19                  incentives offered through the START-UP NY  
20                  program may be very limited, but having  
21                  access to the resources at these Centers,  
22                  like the RPI CATS and the Centers across the  
23                  state, allows us access to equipment,  
24                  multi-million-dollar pieces of equipment,

1 testing facilities, knowledge that we  
2 absolutely have no other way to get. Okay?

3 And so any tax breaks that may be  
4 offered to us mean very little compared to  
5 the ability to go to a Center like this and  
6 use equipment that we could never consider  
7 purchasing.

8 SENATOR KRUEGER: Right. So you make  
9 a pitch for continuing the relationships with  
10 the universities, but actually make an  
11 argument -- which I personally would agree  
12 with -- that the tax incentive part of the  
13 deal was never really going to be the  
14 successful part of it anyway.

15 DR. HOFFMAN: Certainly not for  
16 businesses at the size that we are right now.

17 SENATOR KRUEGER: And are all 26 of  
18 your programs affiliated with engineering  
19 schools, or it's different kinds of schools?

20 DR. WALCZYK: It's different kinds of  
21 schools. We're mainly in engineering, but it  
22 depends upon the technology area. There's  
23 different CATS or Centers of Excellence, and  
24 it pulls from science, may pull from the

1 business schools, may pull from architecture.  
2 It really depends upon, again, the industry  
3 that they're focusing on.

4 SENATOR KRUEGER: And in your  
5 testimony -- I'm going to stop. I know, I'm  
6 sorry. In your testimony the amount of money  
7 you've helped generate for different  
8 companies, close to \$5 billion, and you list  
9 some number of hundreds of projects.

10 DR. WALCZYK: Yeah, and 22,000 jobs.

11 SENATOR KRUEGER: So can you provide  
12 me detail on that after the hearing, about  
13 where those jobs were and what the projects  
14 were?

15 DR. WALCZYK: Personally, I cannot.  
16 But it's reported to the Empire State  
17 Development group, and they have that data.  
18 specifically, NYSTAR. They collect that data  
19 from all of the Centers and they aggregate it  
20 and they have that data --

21 SENATOR KRUEGER: So they have it on  
22 their site that there's a --

23 DR. WALCZYK: I don't know, but I  
24 would imagine they do. Or I could at least

1 give you the name --

2 SENATOR KRUEGER: Yeah.

3 DR. WALCZYK: Matt Watson, for  
4 example, is head of NYSTAR, so he's somebody  
5 you could talk with.

6 SENATOR KRUEGER: Okay, I can check,  
7 then. Thank you very much, gentlemen.

8 DR. WALCZYK: You're welcome.

9 CHAIRWOMAN YOUNG: Thank you.

10 CHAIRMAN FARRELL: Questions?

11 ASSEMBLYMAN SCHIMMINGER: Yeah. Not  
12 so much a question as a comment, but perhaps  
13 you want to respond.

14 In the past few years there's been  
15 word about in the land about how wonderful  
16 this brand-new program is that was just  
17 created in the current administration,  
18 START-UP NY, which brings together the  
19 universities and the business sector and  
20 entrepreneurs and startups. Isn't this  
21 amazing?

22 When the public listens -- and I wish  
23 more had listened to your testimony -- you've  
24 been doing it for decades. The Centers of

1           Advanced Technology and the Centers of  
2           Excellence, which have their origins  
3           literally decades ago here in New York State,  
4           have been bringing together university and  
5           business, creating jobs, innovating.

6                     And I just wonder what might have  
7           worked out a little better if perhaps some of  
8           that \$53 million we spent promoting this  
9           START-UP program might have been spent  
10          promoting the Centers of Advanced Technology,  
11          Centers of Excellence, to draw more interest  
12          and bring more companies into your realm.

13                    Just a comment.  But if you wanted to  
14          respond, you might.

15                    DR. WALCZYK:  I -- I don't disagree.  
16          But, you know, the START-UP NY program was  
17          something that was proposed, and I suppose  
18          any new program should be vetted and allowed  
19          to succeed or fail.

20                    I'd rather not comment because I know  
21          what I know.  I know about these -- the CATS  
22          and the COEs.  And for return on investment,  
23          they're a bargain.  And that's what I'm here  
24          to promote.

1 ASSEMBLYMAN SCHIMMINGER: They are a  
2 bargain, and they're an amazing success  
3 story, and I thank you for your involvement  
4 in it.

5 DR. WALCZYK: Thank you.

6 CHAIRMAN FARRELL: Thank you.

7 CHAIRWOMAN YOUNG: Thank you very  
8 much.

9 SENATOR KRUEGER: Thank you very much.

10 DR. WALCZYK: Thank you very much.

11 DR. HOFFMAN: Thank you.

12 CHAIRWOMAN YOUNG: Appreciate your  
13 sharing.

14 ASSEMBLYMAN SCHIMMINGER: Thank you  
15 very much.

16 CHAIRWOMAN YOUNG: Our next speaker is  
17 from the New York State Community Development  
18 Financial Institution Coalition. And that's  
19 Tristram Coffin.

20 MR. COFFIN: Thank you. Good  
21 afternoon, Senator Young, and honorable  
22 members of the committee. My name is  
23 Tristram Coffin. I'm the CEO of Alternatives  
24 Federal Credit Union in Tompkins County,



1 New York, and I'm speaking on behalf of the  
2 New York State CDFI Coalition.

3 The coalition represents approximately  
4 70 community development financial  
5 institutions, or CDFIs for short, across the  
6 state. And though they may be organized as  
7 banks, credit unions, loan funds, or venture  
8 capital funds, CDFIs by definition are  
9 dedicated to giving people a helping hand up  
10 the financial ladder by providing loans,  
11 technical assistance, and financial education  
12 to borrowers in underserved communities  
13 throughout the state.

14 CDFI is a designation provided by the  
15 U.S. Department of the Treasury to financial  
16 institutions that meet strict criteria in  
17 primarily serving low-income communities. At  
18 the federal level, CDFIs have competed for  
19 grants made by Treasury and funded by an  
20 annual budget appropriation since the  
21 mid-1990s. And these awards, which are made  
22 through a competitive process on the basis of  
23 performance, leverage private dollars to help  
24 CDFIs build the capacity necessary to carry

1 out their mission of helping communities  
2 rebuild.

3 And because of the extraordinary  
4 impact of CDFIs in New York, the state passed  
5 enabling legislation in 2007 to create a  
6 New York State CDFI Fund modeled after the  
7 successful Treasury Department program.  
8 However, to date it has not received a penny  
9 of state funding, making it New York's most  
10 underutilized resource in your efforts to  
11 revitalize our economy.

12 The coalition respectfully requests  
13 your consideration of a modest \$15 million  
14 budget appropriation to the New York State  
15 CDFI Fund, from which certified financial  
16 institutions would compete for grants that  
17 help carry out our mission for economic  
18 development by providing business, mortgage  
19 or consumer loans to borrowers who are  
20 underserved by traditional lenders. While  
21 modest by the standards of the New York State  
22 budget, this funding would be a game-changer  
23 for CDFIs who have demonstrated their  
24 capability to change lives and now seek to

1 broaden their community impact.

2 CDFIs are a tried and proven  
3 methodology for effectively allocating  
4 capital to lower-income communities. Empire  
5 State Development has demonstrated the  
6 interest and willingness to administer a  
7 New York CDFI Fund, and we are confident that  
8 the use of CDFIs as a tool of economic  
9 development strategy will position New York  
10 as a national model and leader.

11 Part of the reason for the success of  
12 CDFIs is the manner in which they leverage  
13 resources for economic development. The  
14 Treasury Department's CDFI grant program  
15 requires non-federal matching resources, so  
16 New York CDFIs receiving state grants would  
17 be immediately eligible to use them as the  
18 basis for federal awards. State-funded CDFI  
19 grants would provide an essential asset that  
20 can leverage other sources of funding, such  
21 as banks, foundations, and other impact  
22 investors.

23 Estimates for the ratio of private  
24 capital leveraged by CDFI investments have

1           ranged from 10 to 1 to 20 to 1. So  
2           therefore, a \$15 million allocation for  
3           New York CDFIs could attract an additional  
4           \$150 million to \$300 million of private  
5           capital to be deployed in underserved  
6           communities throughout New York.

7                     Small businesses have been responsible  
8           for two out of three jobs created in the last  
9           two decades. But while the economy continues  
10          to improve on paper, there continues to be a  
11          lack of lending to small business. In fact,  
12          whereas CDFIs continued making small business  
13          loans after the 2008 mortgage meltdown, many  
14          of the largest banks dramatically scaled back  
15          their lending.

16                    The experience of my CDFI,  
17          Alternatives, is instructive in this regard.  
18          During a period of retrenchment for the  
19          financial industry in which business lending  
20          declined dramatically, Alternatives increased  
21          its annual business loan volume fourfold  
22          between 2007 and 2010.

23                    Empire State Development Corporation  
24          manages a small CDFI Assistance Program that

1           benefits those CDFIs who work with small  
2           business. And we have proven ourselves to be  
3           effective stewards of this assistance, using  
4           grant funds to build effective collaborations  
5           to promote successful small businesses.

6                   CDFIs provide a range of affordable  
7           loan options to micro-entrepreneurs, with a  
8           heavy concentration on women and minority  
9           business owners, along with training and  
10          educational support to help those businesses  
11          succeed.

12                   Discussions of small business lending  
13          to underserved communities often center on  
14          prodding larger banks to do more. And while  
15          this is understandable, given the amount of  
16          money that they have at their disposal, the  
17          potential of smaller institutions should not  
18          be overlooked. By expanding lending programs  
19          through community-based lending institutions  
20          such as CDFIs, it is possible to provide the  
21          hands-on support necessary to help small  
22          businesses grow. After all, smaller loans  
23          are the core of smaller lenders' business  
24          model.

1           The business loans Alternatives makes  
2           average about \$25,000. So the businesses we  
3           help, while successful, are not the type of  
4           venture capital startups that promise hefty  
5           future returns. And whereas businesses like  
6           those we work with will have to grow much  
7           larger before becoming attractive to large  
8           banks, CDFIs consider such loans to be the  
9           reasons why we exist. And our experience  
10          shows that microloans are often what  
11          underserved rural, women and minority  
12          entrepreneurs need.

13                 These types of programs, and the  
14                 one-to-one coaching necessary to help  
15                 borrowers succeed, is more effectively  
16                 delivered at local scale. Small business is  
17                 integral to economic development, and by  
18                 extending capital to community lenders  
19                 through an appropriation to the State CDFI  
20                 Fund, we can create thousands of jobs in  
21                 underserved areas.

22                 We have first-hand experience with the  
23                 challenges and opportunities of making small  
24                 business loans in general, and loans to

1 minority and women-owned businesses in  
2 particular. In fact, more than 53 percent of  
3 Alternatives' business loans over the past  
4 three years are made to minority and  
5 woman-owned businesses. And with appropriate  
6 support, CDFIs would lend even more. The  
7 experience of Alternatives and other CDFIs  
8 shows that more can and should be done to  
9 make loans available to qualified  
10 lower-income entrepreneurs.

11           There is a story behind each and every  
12 one of the loans we make, but here is a prime  
13 example of how community-based lenders can  
14 work with government to expand lending  
15 opportunities. While working for a catering  
16 company, Lancelot Brown was injured and  
17 unable to work. Though he had dreams of one  
18 day owning a restaurant, he had no experience  
19 in running a business. Lance said, "I did  
20 not have a strong financial base. Since my  
21 accident, I had been on public assistance and  
22 had limited funds. I had to do something to  
23 get off the system, to pull myself up."

24           Thankfully, Lance found his way to a

1 CDFI, which helped him finance a successful  
2 restaurant in Brooklyn. And as Lance  
3 explained, "The loan from Accion has allowed  
4 me to enter the second phase of my business.  
5 I've been able to purchase enough equipment  
6 and expand operations Monday through Saturday  
7 for lunch and dinner. We've really been able  
8 to grow."

9 It's crucial that economic development  
10 strategies include CDFIs. We don't need to  
11 be prodded to do more. We're here to help.  
12 Give us the opportunity to do so.

13 We finance the American dream. And as  
14 you consider ways to develop the state's  
15 economy, the importance of stable communities  
16 cannot be overstated. CDFIs are also leaders  
17 in financing homes for low-income people.  
18 Some, such as CDFI banks and credit unions,  
19 successfully provide mortgage loans to  
20 underserved borrowers while maintaining  
21 delinquency and loss ratios that are superior  
22 to those of mainstream financial  
23 institutions. Loan funds often provide the  
24 necessary bridge financing that enable



1 large-scale construction. A predevelopment  
2 loan in September of 2015 from a CDFI,  
3 Leviticus 25:23 Fund, set the foundation for  
4 a comprehensive neighborhood revitalization  
5 effort in upstate Otsego County, New York. A  
6 non-profit developer will create 20 units of  
7 affordable rental housing for families and 40  
8 affordable units for Seniors among 14  
9 scattered sites. The \$516,000 loan made by  
10 Leviticus is financing the predevelopment  
11 costs for the project, which will eliminate  
12 blight, rehabilitate a vacant building, and  
13 transform underutilized vacant lots.

14 The properties that comprise Oneonta  
15 Heights are just north of the downtown core  
16 of Oneonta. The City of Oneonta has  
17 committed funding in recognition of the  
18 revitalization potential of Oneonta Heights  
19 to change the landscape of the community and  
20 stimulate new economic investments in the  
21 city's core. "As a regional lender, Leviticus  
22 is proud to direct financing to such an  
23 innovative project in the City of Oneonta,"  
24 said Greg Maher, Leviticus's executive

1 director. "This development will revitalize  
2 an important part of the city's core and will  
3 provide the residents with viable bus  
4 transportation options and accessibility for  
5 shopping, healthcare and jobs."

6 With the ability to compete for state  
7 CDFI grants, Leviticus, a small CDFI that has  
8 only four employees, would be in a position  
9 to catalyze more development projects of this  
10 type.

11 In the aftermath of the recent  
12 mortgage meltdown, CDFIs have demonstrated  
13 indisputable success in providing home loans  
14 to low-income borrowers. Recognizing the  
15 excessive risk taken by lenders in the recent  
16 mortgage meltdown, New York State has taken  
17 the initiative to pursue legal action against  
18 certain banks.

19 And to the extent that proceeds of  
20 those settlements are incorporated within the  
21 budget process, we believe it's fair and  
22 reasonable that a portion of those funds be  
23 directed toward our requested \$15 million  
24 CDFI Fund appropriation. After all, it's we

1 CDFIs who have been and are still doing the  
2 work of remediating the collateral damage  
3 done to lower-income communities, offering  
4 responsible loans and financial counseling  
5 that helps provide the community stability  
6 requisite for economic development.

7           We are a delivery system for today.  
8 Any effort by the state to encourage greater  
9 small business lending, in particular, must  
10 take a holistic approach, recognizing the  
11 need for more mission-driven funding for  
12 underserved individuals and communities.  
13 CDFIs work hands-on in local communities to  
14 address some of our most vexing economic  
15 development challenges. We provide pathways  
16 to success for individuals and businesses  
17 whose needs are not being met by mainstream  
18 lending institutions.

19           Recognizing the acute pressure on  
20 state financial resources, we stand proudly  
21 as a more efficient delivery channel to  
22 transform public capital into private jobs.  
23 We create market-based solutions that provide  
24 investment to chronically underserved

1 communities. We leverage federal and private  
2 dollars to create an outsized community  
3 impact.

4 We are locally controlled and  
5 accountable to our target market, both  
6 through board governance as well as the  
7 reporting we provide to the U.S. Treasury.  
8 And as such, CDFIs are positioned to be more  
9 flexible and responsive to the needs of the  
10 communities we serve. Many traditional  
11 economic development models have required  
12 top-down priorities set by government. CDFIs  
13 leverage public resources in a more  
14 decentralized manner that is uniquely  
15 positioned to meet the most pressing  
16 challenges within the local communities that  
17 we serve.

18 Frankly, with more government comes  
19 the risk of more bureaucracy, which makes it  
20 that much more expensive and difficult for  
21 community-based lenders. For example, even  
22 though SBA loans are often pointed to as a  
23 model of how lending partnerships should  
24 work, its requirements are so cumbersome to

1           comply with that only 26 credit unions in New  
2           York make SBA loans, and nationwide, only  
3           about 200 do so. So we don't need new  
4           government lending structures. What we need  
5           is more targeted investments in the community  
6           development finance entities we have, in  
7           particular CDFIs.

8                         Now, you may not be familiar with  
9           CDFIs. We are in some ways a well-kept  
10          secret. However, we cover every county in  
11          New York State. And with over \$3 billion of  
12          outstanding loans, the CDFIs of New York  
13          State have a demonstrated capability to  
14          allocate capital effectively, to create and  
15          protect jobs, stabilize communities, and help  
16          low-income consumers build and utilize  
17          credit.

18                        However, so much more is possible.  
19          Recognizing this opportunity, 10 years ago  
20          our state had the foresight to create the  
21          first state-specific CDFI Fund in the nation.  
22          Unfortunately, a financial and banking crisis  
23          happened, derailing our economy and putting  
24          aside any plans to invest in this

1 groundbreaking fund for the betterment of  
2 New Yorkers. Ten years on, we have weathered  
3 the storm of a crisis and recession, but the  
4 work of building an inclusive prosperity  
5 through which all New Yorkers can work toward  
6 their dreams remains unfulfilled.

7 At a time in which the payout of  
8 settlement funds to the state stands as  
9 evidence of the failed approaches of the past  
10 decade, and as the state considers strategies  
11 that place local and regional economic  
12 development solutions at the forefront, the  
13 imperative to utilize the New York State CDFI  
14 Fund has never been clearer. So we  
15 appreciate your consideration of our  
16 budgetary request.

17 Thank you very much for giving me the  
18 opportunity to speak today. CDFIs were  
19 created out of a recognition that not  
20 everyone has equal access to financial  
21 services, and we're ready to work  
22 constructively with other stakeholders,  
23 including ESDC and the Legislature, to make  
24 sure all New Yorkers can get the loans that



1 great leadership in creating the nation's  
2 first state CDFI fund. And today, the need  
3 to strengthen our communities and create jobs  
4 is as great as ever. CDFIs are making a  
5 difference each day for hundreds of thousands  
6 of New Yorkers who aspire to a better future  
7 for themselves and their families. Please  
8 don't deny the CDFIs of our state of the  
9 capital we need to meet today's opportunity.  
10 Please say yes to our request for a  
11 \$15 million appropriation to the New York  
12 CDFI Fund.

13 Thank you very much for your  
14 consideration.

15 CHAIRWOMAN YOUNG: Thank you.

16 Senator Savino.

17 SENATOR SAVINO: Thank you, Senator  
18 Young.

19 Thank you, Mr. Coffin, for your  
20 testimony.

21 If I recall, last year when we did the  
22 hearing on MWBEs, et cetera, I think you  
23 testified.

24 MR. COFFIN: I did.



1                   SENATOR SAVINO: And I'm just trying  
2                   to recall at the time your -- the CDFIs, they  
3                   play a role in providing funding to many of  
4                   them, but I think there was an issue. What  
5                   is the default rate on loans that your  
6                   lenders provide?

7                   MR. COFFIN: It's very low. It's less  
8                   than 25 basis points.

9                   SENATOR SAVINO: It is less than --  
10                  yeah, I couldn't remember exactly what it  
11                  was.

12                 So you're providing -- I guess you're  
13                 filling a hole that the community banks  
14                 really are supposed to provide. That lending  
15                 does not seem to be happening; correct?

16                 MR. COFFIN: Correct.

17                 SENATOR SAVINO: Okay. Just wanted to  
18                 clarify. Because I knew the default rate of  
19                 one was high and one was low. So yours is  
20                 low. It must the community banks' is high.

21                 MR. COFFIN: We're effectively taking  
22                 on loans that on paper may seem to be more  
23                 risky than others, because we're working  
24                 oftentimes with borrowers that are

1 credit-challenged or new to business or  
2 whatnot. But we've become very adept over  
3 time at identifying those folks who are most  
4 positioned to succeed and then provide sort  
5 of the supportive ecosystem in the form of  
6 advice, coaching, and technical assistance  
7 that really kind of work hand-in-glove with  
8 the capital to help those business owners  
9 become successful.

10 SENATOR SAVINO: Thank you.

11 CHAIRMAN FARRELL: Assemblywoman  
12 Hyndman.

13 ASSEMBLYWOMAN HYNDMAN: Hi.

14 MR. COFFIN: Hi.

15 ASSEMBLYWOMAN HYNDMAN: I must say I  
16 do think CDFIs are a well-kept secret. I  
17 just heard about them recently because  
18 downtown Jamaica, in Queens, where I live, is  
19 undergoing a vast amount of development. So  
20 there are a couple of bids who are now also  
21 working with local community groups to form  
22 CDFIs.

23 So I just -- it's more of a comment.  
24 You know, I would like them to get more

1 information, because we feel a lot of the  
2 banks, the major banks, are not loaning to  
3 small businesses, especially women  
4 businesses. And a lot of them are  
5 intimidated by the MWBE process of how to  
6 become certified, and those that do become  
7 certified have problems getting loans from  
8 major banks.

9 So in Southeast Queens we have an  
10 issue, so there are quite a few groups who  
11 are trying to start this. Is there any  
12 advice you could give them, or give me to  
13 give them, in how to go about making sure  
14 that they explore this opportunity? Other  
15 than getting the appropriation in the budget,  
16 what other ways could I give them?

17 MR. COFFIN: There's a wealth of --  
18 within the CDFI field, we all sort of help  
19 each other. You know, we're -- I mean, some  
20 CDFIs have a for-profit model, but we all  
21 kind of share the same -- most of us are  
22 nonprofit, and we all share the same type of  
23 community development mission, so we  
24 collaborate and share resources all the time.

1                   So I would say there are resources  
2                   from trade associations, like Opportunity  
3                   Finance Network, or the National Federation  
4                   of Community Development Credit Unions, that,  
5                   depending upon the type of CDFIs, can help  
6                   groups that would like to organize one in  
7                   their community.

8                   Certainly the New York State CDFI  
9                   Coalition, of which I serve as board chair,  
10                  is a convenient forum for networking,  
11                  information sharing, kind of putting people  
12                  together with peers who can help them get  
13                  started. And we'd love to do more, to launch  
14                  more successful CDFIs in communities all  
15                  across New York State.

16                  ASSEMBLYWOMAN HYNDMAN: Thank you,  
17                  Mr. Coffin.

18                  MR. COFFIN: Thanks.

19                  CHAIRWOMAN YOUNG: Senator Krueger.

20                  SENATOR KRUEGER: So 10 years ago we  
21                  created a fund, we've never funded it. You  
22                  say in your testimony Empire State  
23                  Development likes the idea. Fifteen million  
24                  dollars is a lot of money to you and I, but

1           it's sort of petty cash in what ESDC has been  
2           pouring out for years and years and years.

3                         Why do you never get the money?

4                         MR. COFFIN: Well, partly it's on  
5           ourselves because we never really were  
6           organized as a group to be able to advocate  
7           for that.

8                         And obviously the resources of the  
9           state are under acute pressure, and so, you  
10          know, to the extent that we're something new  
11          at a time when the emphasis maybe within the  
12          state has been to preserve things that  
13          already exist in the budget process, that's  
14          probably how we weren't funded.

15                        Folks who are industry veterans who  
16          were there at the 2007-2008 launch of the  
17          fund can share stories about how literally  
18          the market was crashing right at the time  
19          that the ink was drying on the legislation,  
20          and that kind of derailed some of the efforts  
21          at that time.

22                        But that said, I think over that time,  
23          we've demonstrated our capacity and our  
24          capability. As you mentioned, ESDC does have

1 a very small \$1.5 million appropriation each  
2 year for CDFIs that specialize in small  
3 business, and that's been an extremely  
4 successful program. It's helped us launch  
5 some really kind of groundbreaking  
6 collaborations to be able to build our  
7 capacity.

8 And like you say, we're not asking for  
9 a huge amount here with the \$15 million, but  
10 I think that would give us an opportunity to  
11 demonstrate our success and probably give you  
12 a feeling of comfort that --

13 SENATOR KRUEGER: And you mentioned  
14 that there's some matching funds that we  
15 can't get unless we put money up. So is it a  
16 one-to-one with the feds? How does that  
17 work?

18 MR. COFFIN: So the federal CDFI Fund,  
19 that would be a one-to-one match, that's  
20 correct. So for every dollar we apply for  
21 from the U.S. Treasury, we have to have a  
22 dollar of non-federal match, which this  
23 clearly would provide.

24 SENATOR KRUEGER: And other states are

1 participating, and they have data showing  
2 it's been successful?

3 MR. COFFIN: Actually, other states  
4 have not created their own state-specific  
5 CDFI funds the way that New York had the  
6 foresight to do 10 years ago. So this is  
7 really kind of a groundbreaking -- or was a  
8 groundbreaking policy innovation at the time.

9 SENATOR KRUEGER: So the feds aren't  
10 spending any of their money, it's a  
11 hypothetical at their level also?

12 MR. COFFIN: Say again, I'm sorry?

13 SENATOR KRUEGER: You said it needs to  
14 be a state match. So if no states are  
15 investing, is anybody getting these federal  
16 matching funds?

17 MR. COFFIN: Oh, yeah. So the  
18 non-federal match can be -- typically comes  
19 from grant money that's provided, say, by  
20 foundations, by individual philanthropy --  
21 depending upon the business model of the  
22 CDFI, can even, for some, come from the  
23 retained earnings of the CDFI itself.

24 So we can and do have -- you know,

1 provide documentation of the non-federal  
2 match to Treasury when we apply for these  
3 grants. However, you know, having the  
4 non-federal match from New York would  
5 certainly provide an immediate opportunity  
6 for one-to-one leverage just from Treasury  
7 and then -- notwithstanding the 10-to-20-to-1  
8 ratio of leverage that can be created through  
9 those other funding sources -- private  
10 foundations, corporations, individual  
11 investors, and so forth.

12 SENATOR KRUEGER: And most of your  
13 members are credit unions?

14 MR. COFFIN: Nationwide, about  
15 50 percent of CDFIs are community development  
16 loan funds, so these are organizations that  
17 acquire capital from philanthropic sources.  
18 The earliest ones were started by nuns  
19 looking for ways to invest their own  
20 retirement funds on a socially responsible  
21 basis, but have expanded in different ways.

22 About 25 percent are credit unions,  
23 like the organization that I work for, and  
24 about 25 percent are community development



1 banks.

2 SENATOR KRUEGER: And that's true in  
3 New York State? You gave national data, but  
4 we sort of follow the national --

5 MR. COFFIN: I would have to parse the  
6 data a little, but I would say roughly that's  
7 probably close to --

8 SENATOR KRUEGER: I ask because for  
9 years the credit unions have been coming to  
10 us saying if New York State just puts some of  
11 its money in the credit unions, we would have  
12 the money to do these kinds of loans at the  
13 local community level.

14 So it sounds like that would be  
15 another funding stream that could assist with  
16 this kind of program.

17 MR. COFFIN: Yeah. I mean, municipal  
18 deposits could provide a source of capital  
19 for community development credit unions,  
20 specifically, in New York. Obviously the  
21 broader universe of CDFIs wouldn't benefit as  
22 much from that.

23 SENATOR KRUEGER: Got it. Thank you  
24 very much.

1 MR. COFFIN: Thank you very much.

2 CHAIRWOMAN YOUNG: Thank you.

3 CHAIRMAN FARRELL: Thank you.

4 CHAIRWOMAN YOUNG: Thank you for your  
5 testimony.

6 MR. COFFIN: Okay, thank you.

7 CHAIRWOMAN YOUNG: Next up we have the  
8 film unions -- Motion Pictures Editors Guild;  
9 International Alliance of Theatrical Stage  
10 Employees Local 52; Screen Actors Guild-  
11 American Federation of Television and Radio  
12 Artists; Directors Guild of America, Inc.;  
13 and Broadway Stages.

14 Representing them will be President  
15 Thomas O'Donnell from the Theatrical  
16 Teamsters Local 817 and board chair from the  
17 Post New York Alliance, Yana Collins Lehman.

18 Welcome.

19 MS. COLLINS LEHMAN: Good afternoon,  
20 Senators and Assemblymembers. My name is  
21 Yana Collins Lehman, and I am the board chair  
22 of the Post New York Alliance.

23 The Post New York Alliance is  
24 comprised of over 65 post-production

1 facilities from all over the State of  
2 New York, and more than 600 individual  
3 post-production professionals working in film  
4 and television. These professionals work as  
5 editors of sound, picture, music, as foley  
6 artists and in visual effects, among other  
7 titles. Post-production workers represent a  
8 highly skilled workforce engaged on a project  
9 for many months after the production  
10 component is concluded.

11 I would like to thank the committee  
12 for the opportunity to describe the  
13 unparalleled success of the Empire State  
14 Post-Production Film and Television Tax  
15 Credit. This tax credit is a \$25 million  
16 suballocation of the Empire State Film and  
17 Television Tax Credit. We testify today in  
18 support of the three-year extension of the  
19 tax credit contained in the Governor's  
20 proposed Executive Budget.

21 In 2016, the Post New York Alliance  
22 commissioned a report from HR&A to better  
23 understand the economic impact of the  
24 Post-only part of the Empire State credit on

1 the economy of New York State, and what we  
2 discovered is that the post-production tax  
3 credit has proven to be both a jobs creator  
4 and an economic winner for the state.

5 Over 40 percent of the jobs in what  
6 New York State traditionally defines as the  
7 post-production industry do not require a  
8 bachelor's degree, and over 90 percent of  
9 those offer on-the-job training.

10 In 2015, the post-production ecosystem  
11 generated \$128 million in state tax revenues,  
12 including individual income, corporate  
13 income, sales, selective sales, and other  
14 taxes. Thirty-five percent more people work  
15 in the post-production ecosystem today than  
16 did in 2004, when the whole tax credit was  
17 put into place. Twenty percent of U.S.-based  
18 post-production firms now call New York State  
19 home. 11,260 people work in the  
20 post-production ecosystem, including 4,470  
21 freelancers.

22 Local 700, the Editor's Guild,  
23 reported at the end of 2015 that pension and  
24 health benefits are up 92.8 percent over

1           2009. These are audited numbers.

2                   This tax credit is greatly responsible  
3           for making New York State a national leader  
4           in the post-production industry.

5                   And as an aside, in 2016 the Post  
6           New York Alliance partnered with Empire State  
7           Development to provide post-production  
8           fellowships to 20 New York State college  
9           students, and these fellows came from nine of  
10          the 10 economic regions in New York State.

11                   The Governor's proposed extension of  
12          the credit will ensure that projects which  
13          otherwise would site elsewhere come to  
14          New York State and, with these projects, the  
15          many thousands of jobs as well.  
16          Additionally, the extension ensures the  
17          continuation of the millions of dollars of  
18          tax revenue for the State of New York being  
19          generated by this tax credit.

20                   Thank you again for this opportunity,  
21          and I look forward to any questions.

22                   CHAIRWOMAN YOUNG: Thank you very  
23          much.

24                   You may have heard me speak with

1 Chairman Zemsky earlier about the film tax  
2 credit. And for example, movies such as  
3 The Natural were filmed in Buffalo and in  
4 South Dayton, in my district. I hail from a  
5 very rural part of New York State in Western  
6 New York.

7 Is there -- he didn't really know off  
8 the top of his head how we market New York  
9 State for different sites and locations for  
10 filming. Do you know how that is handled?

11 MS. COLLINS LEHMAN: I do know that  
12 ESD is trying to combine tourism with the  
13 marketing of the film industry. And I can  
14 tell you that a wonderful film was shot in  
15 Buffalo that will be coming out in September  
16 called Marshall, a biopic about Thurgood  
17 Marshall. And that was fully shot there and  
18 did its post-production in New York.

19 CHAIRWOMAN YOUNG: Thank you.

20 MR. O'DONNELL: Senator Young,  
21 Assemblyman Farrell, my name is Tom  
22 O'Donnell. I am the president of Theatrical  
23 Teamsters Local 817.

24 Before testifying in support of the

1 extension of the Empire State Film and  
2 Television Tax Credit, I would like you to  
3 know that I'm also testifying on behalf of  
4 three other film and television unions: The  
5 Screen Actors Guild-American Federation of  
6 Television and Radio Artists; the Directors  
7 Guild of America; and Local 52 IATSE.

8 Our unions are united in strong  
9 support for the three-year extension of the  
10 Empire State Film and Television Tax Credit  
11 included in the Governor's proposed 2017-2018  
12 budget.

13 For those of us representing labor, at  
14 its core the film and television tax credit  
15 is first and foremost a job creator. Since  
16 the inception of the tax credit, our unions  
17 have experienced an enormous increase in new  
18 members, and our members have experienced an  
19 enormous increase in days worked.

20 In 2004, at the inception of the first  
21 iteration of the tax credit program, New York  
22 State was hemorrhaging film work. There was  
23 a smattering of feature films, mostly  
24 shooting location scenes only, the Law and

1 Order franchise, and little other television.  
2 We simply could not compete with Canada and  
3 other locales that had lucrative financial  
4 film incentives in place.

5 With New York State's tax credit,  
6 coupled with the incredible depth of talent  
7 that lives and works here, New York is now a  
8 world hub for film and television production.  
9 Studios are spending millions of dollars to  
10 expand sound-stage capacity as New York has  
11 truly entered into a golden age of television  
12 production. It is the Empire State Film and  
13 Television Tax Credit that has been the  
14 difference maker.

15 In regards to my union, since 2010,  
16 the Teamsters' work force has grown from  
17 1,045 to 1,659 members. Gross wages have  
18 nearly doubled, increasing from \$94 million  
19 to over \$181 million. This increased  
20 economic activity in our industry has  
21 impacted our benefit funds, which has doubled  
22 the number of recipients able to take  
23 advantage of health, pension, and scholarship  
24 benefits.





1 expects these trends to continue.

2           And with regards to Local 52 IATSE,  
3 over the last seven years IATSE has  
4 experienced a 45 percent increase in  
5 membership, with hundreds more applicants in  
6 the pipeline, and an 89 percent increase in  
7 the total hours worked by crew members. The  
8 jobs for IATSE members created under this tax  
9 credit make excellent salaries with excellent  
10 benefits, including employer-funded medical,  
11 a defined benefit pension, and annuity plans.  
12 The union has full employment of its  
13 membership.

14           In addition to my job as president of  
15 Local 817, I serve as the director of the  
16 Motion Picture and Theatrical Trade Division  
17 for the International Brotherhood of  
18 Teamsters for North America. I am well  
19 versed in the construct and impact of film  
20 tax credits.

21           Take out the art and, at its core, the  
22 film industry is about manufacturing content.  
23 In fact, it is easily the most mobile  
24 manufacturing industry in the world. It can

1 as easily move to a fertile environment as it  
2 can move away when an environment becomes  
3 infertile.

4 The argument that New York State will  
5 always have its fair share of film work due  
6 to its locations and creative appeal is a  
7 fallacy. Without the film tax credit, the  
8 work would leave -- especially television,  
9 which seeks the budgeting predictability that  
10 a stable tax credit program affords. The  
11 state has empirical evidence of such on  
12 record.

13 In summation, as I stated in my  
14 preface, the Empire State Film and Television  
15 Tax Credit is a jobs program. Clearly the  
16 unions mentioned have benefited greatly. The  
17 other film and television unions can say the  
18 same. But not just the unions have  
19 benefited -- a multitude of ancillary  
20 workers, hotels, restaurants, and other  
21 suppliers to the industry have reaped the  
22 benefit of the film tax credit program as  
23 well.

24 So for these reasons on behalf of my

1           brothers and sisters in the labor movement,  
2           we urge you to approve the Governor's  
3           proposed extension of the Empire State Film  
4           and Television Tax Credit.

5                     I thank you for your time and  
6           consideration.

7                     CHAIRWOMAN YOUNG: Thank you very  
8           much, Mr. President. And it's great to hear  
9           that your members are working and that jobs  
10          are growing.

11                    Senator Savino.

12                    SENATOR SAVINO: Thank you, Senator  
13          Young.

14                    I want to thank both of you for coming  
15          in. And, you know, there's been a lot of  
16          discussion today about the success or failure  
17          of some of our economic development programs.  
18          I would have to say, though, I am probably  
19          the biggest cheerleader of the film tax  
20          credit. I think it is the most successful  
21          one that we have, and you can see it on the  
22          ground every day. All you have to do is  
23          visit Steiner Studios in Brooklyn and you see  
24          what's happening there. As we speak, you

1 know, Staten Island is becoming, I think,  
2 ground zero for the film industry. There are  
3 more television shows filled there. Gotham  
4 is on the ground right now. The Black List  
5 films there regularly. Boardwalk Empire I  
6 think filmed half of their time there.

7 So we're seeing it. And it's not just  
8 the fact that your members are working, it's  
9 when they're on location in parts of New York  
10 City and other parts of New York State,  
11 they're also spending money in the local  
12 economy. You know, so we were able to  
13 protect and save good, solid union jobs, and  
14 they are then reaping the benefit in the  
15 local communities.

16 So I think it's something that has  
17 been tremendously successful, and I think we  
18 need to do everything possible to continue to  
19 support the film tax credit because it is not  
20 just a good economic development program, but  
21 it is reaping benefits for the city and the  
22 state all over. And I support the idea of  
23 let's try and get some more upstate. I mean,  
24 there's got to be some films that want to be

1 shot in the rural parts of New York State.

2 My prayer would be that one day we  
3 could get, I don't know, HBO to bring Game of  
4 Thrones here. I think we could recreate  
5 Ireland in upstate New York. What do you  
6 think, Assemblyman O'Donnell? We could find  
7 a space up there that looks like Ireland,  
8 don't you think so?

9 ASSEMBLYMAN O'DONNELL: Whatever you  
10 say, Senator. Whatever you say.

11 (Laughter.)

12 SENATOR SAVINO: Thank you.

13 CHAIRWOMAN YOUNG: Thank you.

14 CHAIRMAN FARRELL: Mr. O'Donnell.

15 ASSEMBLYMAN O'DONNELL: Mr. O'Donnell,  
16 welcome. Thank you very much for being here.

17 You made a distinction or added  
18 language into your testimony about scripted  
19 shows. Does the tax credit apply to  
20 nonscripted shows as well?

21 MR. O'DONNELL: It does not apply to  
22 documentaries and reality television at this  
23 time.

24 ASSEMBLYMAN O'DONNELL: Well, that's

1 good, because I don't like those shows.

2 MR. O'DONNELL: Neither do I.

3 ASSEMBLYMAN O'DONNELL: So fake news.

4 I don't like the fake news shows.

5 And you're here testifying in support

6 of the extension of the credit. I presume,

7 if we were to extend it beyond the three

8 years, you'd be fine with that too. Yes?

9 MR. O'DONNELL: I'd be even more

10 pleased than I am now.

11 ASSEMBLYMAN O'DONNELL: Well, I'm

12 looking to make you pleased, Mr. O'Donnell.

13 Thank you very much.

14 CHAIRWOMAN YOUNG: Thank you.

15 ASSEMBLYMAN SCHIMMINGER: Are you

16 related?

17 ASSEMBLYMAN O'DONNELL: No. No

18 relation, no.

19 CHAIRWOMAN YOUNG: Sincerely, we

20 appreciate you being here today. Thank you

21 for your input.

22 MS. COLLINS LEHMAN: Thank you very

23 much.

24 CHAIRMAN FARRELL: Thank you.

1                   CHAIRWOMAN YOUNG: The next speaker is  
2                   Kristen McManus, Association for the  
3                   Advancement of Retired Persons, AARP.

4                   Welcome.

5                   MS. McMANUS: Hello.

6                   CHAIRWOMAN YOUNG: Any time you're  
7                   ready.

8                   MS. McMANUS: Okay. Good afternoon,  
9                   Senator Young, Assemblyman Farrell, and  
10                  members of the committee. Thank you for the  
11                  opportunity to testify today.

12                  I am Kristen McManus. I'm the senior  
13                  program specialist for AARP New York. AARP  
14                  is a social mission organization, and we have  
15                  over 2.6 million members in New York State.

16                  My statement today is going to focus  
17                  on two areas of importance for the financial  
18                  security of older New Yorkers. I'll start by  
19                  discussing the Executive Budget proposal to  
20                  combat financial exploitation of older  
21                  adults, which is unfortunately a growing  
22                  problem in the state and across the country.

23                  A 2016 study from the Office of  
24                  Children and Family Services shows that in



1 New York State the number of reported cases  
2 of financial exploitation for older adults  
3 has increased 35 percent between the years  
4 2010 and 2014.

5 The estimate is that 5 million older  
6 adults across the country are impacted by  
7 financial exploitation every year. In  
8 New York State, Lifespan of Greater Rochester  
9 estimates that 260,000 older adults fall  
10 victim every year. But this is an incidence  
11 that widely goes underreported. So for every  
12 one case that is detected and brought to the  
13 attention of the authorities, they estimate  
14 that approximately 23 go undetected.

15 OCFS has estimated that the total cost  
16 of financial exploitation for older adults is  
17 \$1.5 billion every year. This is the cost  
18 that's to the state and to the individual  
19 victims.

20 The Executive Budget proposal provides  
21 training and education for banking  
22 institutions that will allow them to better  
23 detect incidents of financial exploitation of  
24 older adults. Banks would be able to act

1 quickly to place a hold on a vulnerable  
2 adult's account if they have reason to  
3 suspect that they are a victim of financial  
4 exploitation. The adult will also still be  
5 able to access those accounts and funds for  
6 ongoing living expenses and for emergencies  
7 if necessary.

8 AARP supports this initiative, and our  
9 recommendation is that the Legislature  
10 include this language in the enacted budget.

11 I would also like to take a moment to  
12 talk about increasing access to retirement  
13 savings accounts. AARP has been a supporter  
14 of the Secure Choice Savings Program Act, as  
15 championed by Senator Savino and Assemblyman  
16 Rodriguez. This would create a  
17 state-facilitated retirement savings option  
18 for private-sector workers who have no way to  
19 save for their retirement through their  
20 employer.

21 We know that there are about  
22 3.5 million people in the private sector who  
23 have no way to save for their retirement at  
24 work. This is more than half of the state's

1 private sector. If we take a look at that  
2 number and break it down further by race and  
3 ethnicity, we see the lack of access to  
4 retirement savings programs grows  
5 substantially. About 67 percent of our  
6 Hispanic and Latino workforce, 52 percent of  
7 the African-American and black workforce, and  
8 60.5 percent of Asian-American workers have  
9 no way to save for their retirement on the  
10 job.

11 We also know that employees are  
12 15 times more likely to save if their  
13 employer gives them a way to do so.

14 AARP believes that New York can help  
15 workers save for their retirement through the  
16 Secure Choice program. It establishes a  
17 highly effective, automatic enrollment  
18 option, which we have seen shows a result of  
19 a participation rate of 90 percent in  
20 retirement savings programs.

21 This creates a convenient way for  
22 employees to save on the job, and it's a  
23 portable option, so they can take it with  
24 them from job to job if they decide to change

1 jobs.

2 It's also cost-effective for  
3 businesses. We know that many businesses,  
4 particularly small businesses, want to be  
5 able to offer this type of benefit to their  
6 employees, but they often find it too costly  
7 or that the administrative burden is too much  
8 to bear.

9 AARP recently did a study of small  
10 businesses across the state. Two-thirds of  
11 them said that they support the idea.  
12 Moreover, 80 percent of them believe that the  
13 Legislature should support this idea.

14 This is a benefit to the employees, to  
15 the employers, but also to the state. It is  
16 designed to be self-sustaining and not rely  
17 on any ongoing state funding. And by making  
18 it easier for people to save for retirement,  
19 they'll be less likely to need  
20 taxpayer-funded services and safety-net  
21 programs down the line.

22 We think the Secure Choice Savings  
23 Program Act is one of the most effective ways  
24 to ensure that New Yorkers have the tools

1           that they need to be financially secure in  
2           their retirement. We ask that the  
3           Legislature include this language in the  
4           enacted budget.

5                     That's all I have for you. Thank you  
6           for the opportunity to testify, and I am  
7           happy to take any questions.

8                     CHAIRWOMAN YOUNG: Thank you.

9                     Any questions?

10                    ASSEMBLYMAN OAKS: Thank you.

11                    CHAIRMAN FARRELL: Thank you.

12                    CHAIRWOMAN YOUNG: You gave a very  
13           comprehensive presentation. Thank you so  
14           much.

15                    SENATOR SAVINO: Thank you for  
16           supporting the Secure Choice Retirement Plan.

17                    MS. McMANUS: Thank you for sponsoring  
18           it.

19                    CHAIRWOMAN YOUNG: Next speaking is  
20           Rose Marie Cantanno, associate director of  
21           the Consumer Protection Unit for the New York  
22           Legal Assistance Group.

23                    Thank you for coming today.

24                    MS. CANTANNO: Good afternoon, Senator

1 Young, Chairman Farrell, members of the  
2 Senate and the Assembly. My name is Rose  
3 Marie Cantanno. I'm the associate director  
4 of the Consumer Protection Unit at the  
5 New York Legal Assistance Group, known as  
6 NYLAG, and I also supervise the Foreclosure  
7 Prevention Project. I appreciate you letting  
8 me speak to you today about the effect that  
9 the elimination of foreclosure prevention  
10 funding will have on the state.

11 For the past six and a half years, I  
12 have had the privilege of representing  
13 New York homeowners in the five boroughs of  
14 New York City and long Island. And though we  
15 have made great strides, unfortunately the  
16 foreclosure crisis that began in 2008 is  
17 still far from over. At this time  
18 foreclosures still comprise 26 percent of our  
19 civil docket in New York State. And in 2016  
20 alone, 34,000 new foreclosures were filed and  
21 72,000 cases are still pending.

22 For the past five years, monies from  
23 the National Mortgage Settlement have funded  
24 a coalition of legal service providers and

1 housing counselors in every county of  
2 New York State, the Foreclosure Prevention  
3 Services Network. Unfortunately, this  
4 revenue stream is now exhausted. As of  
5 September 30th this year, there will be no  
6 more funding.

7 In 2016, this network served  
8 approximately 34,000 families in New York  
9 State. Legal service providers represented  
10 struggling homeowners who were involved in  
11 complex litigation in order to save their  
12 homes.

13 I just listened to my colleague from  
14 the AARP. Unfortunately, our rising  
15 population that we are seeing now are senior  
16 citizens with reverse mortgage foreclosures  
17 and tax lien foreclosures, we are seeing  
18 people ranging from 70 years old to -- we  
19 just met a woman recently who just had her  
20 100th birthday who is in danger of losing her  
21 home.

22 In addition, we also represent clients  
23 in short-sale transactions. These are people  
24 that as much as they would love to stay in

1           their homes, it's just not feasible. Either  
2           they can't afford if or they owe hundreds of  
3           thousands of dollars more than what their  
4           house is worth. Unfortunately, the banks  
5           make it almost impossible for them to get out  
6           of it.

7                        When we get involved, we negotiate  
8           with the banks so that the banks will accept  
9           market value for the house and forgive the  
10          difference. This allows people to move on  
11          and allows these homes to be sold to other  
12          members of the community. Part of our goal  
13          is to try to see communities stay strong. So  
14          when an investor buys a home in a foreclosure  
15          auction and then it just sits there and  
16          nothing happens, or a bank takes it back and  
17          boards it up and it just sits in the  
18          community, it hurts the entire community.

19                       In 2016, there were sweeping reforms  
20          in the foreclosure world. The Legislature,  
21          for example, has the settlement conference  
22          part, which is the part of our core process  
23          where litigants are able to come in, whether  
24          or not they are represented by counsel, and



1           they actually get to sit down with a referee  
2           or a judge and they try to negotiate some  
3           kind of loan modification or some kind of  
4           home retention option.

5                     At this time we have legal service  
6           providers and housing counselors in all of  
7           the courts. Either people can get assistance  
8           right then and there, or we have legal  
9           clinics set up so that people can come back.  
10          One of the new legislations that we have that  
11          we had, as a foreclosure advocate, been  
12          trying to get for a long time, is that our  
13          litigants are now given 30 days from the time  
14          of the first settlement conference to put an  
15          answer into their foreclosure complaint.

16                    A lot of our clients, they receive the  
17          legal documents in the mail, they're not sure  
18          exactly what to do, they don't respond in  
19          time. This gives them the opportunity, once  
20          they get into court, to put in their legal  
21          answers. We're there now to do these answers  
22          for these people right while they're there.

23                    We're also there to make sure that the  
24          banks do what they are supposed to do. Some

1 people will say to me, "Well, you're just  
2 trying to get people a free house." And that  
3 is absolutely not what we're trying to do.  
4 We are trying to work something out so that  
5 the lenders will get back the money that they  
6 are supposed to get, our clients are able to  
7 stay in their homes and are able to also live  
8 and not have to leave their communities.

9 A lot of my clients, when they just  
10 can't work something out, they end up leaving  
11 the state. And then I have other clients who  
12 will come in and say, Well, I owned a  
13 laundromat and my business is down 50 percent  
14 because one-third of the neighborhood is  
15 gone.

16 For example, the mayor in Mastic Beach  
17 invited me up, and she said, "Come up, and I  
18 want to drive you around." She said, "Every  
19 third house is boarded up, because people  
20 just left."

21 And that's part of the problem with  
22 the zombie properties. We work very closely  
23 with DFS to let them know -- now that the  
24 banks are responsible for taking care of



1                   CHAIRWOMAN YOUNG: Good afternoon.

2                   MS. KASPER-BUCKAREFF: Your Honors, my  
3 name is Lara Kasper-Buckareff. I am an  
4 attorney and the director of foreclosure  
5 prevention at Legal services of the Hudson  
6 Valley, or LSHV. LSHV is a nonprofit law  
7 firm which provides free, high-quality  
8 foreclosure prevention legal services to low-  
9 and middle-income residents of Westchester,  
10 Rockland, Putnam, Orange, Sullivan, Dutchess,  
11 and Ulster counties. With the exception of  
12 Rockland County, we are the only nonprofit  
13 law firm in the aforementioned counties that  
14 provides free foreclosure prevention legal  
15 services.

16                   Our Foreclosure Prevention Unit  
17 consists of nine attorneys and four  
18 paralegals.

19                   In 2016, LSHV provided foreclosure  
20 prevention legal services to 767 households  
21 and prevented 104 mortgage foreclosures.  
22 Legal Services of the Hudson Valley prevented  
23 additional foreclosures due to unpaid taxes,  
24 homeowner or condominium association fees, or

1 cooperative association maintenance fees.

2 The Homeowner Protection Program, or  
3 HOPP, the principal source of foreclosure  
4 prevention funding upon which we have relied,  
5 is ending in September 2017. Without a new  
6 source of funding to fill this gap, every  
7 year LSHV will be forced to turn away  
8 hundreds of Hudson Valley residents in danger  
9 of losing their homes to foreclosure.  
10 Without LSHV, these homeowners will be more  
11 likely to lose their homes because they  
12 cannot afford to hire an attorney.

13 The mortgage foreclosure rate in  
14 New York State remains very high as compared  
15 with the rest of the nation. The Mortgage  
16 Bankers Association reported in November of  
17 2016 that in the third quarter of that year,  
18 New Jersey and New York had the highest  
19 percentage of loans in foreclosure, at 5.79  
20 and 4.32, respectively.

21 Foreclosure cases represent nearly  
22 26 percent of the Supreme Court's civil  
23 caseload. The mid-Hudson region has been hit  
24 particularly hard. The mid-Hudson region and

1 Long Island have the greatest number of  
2 pending mortgage foreclosure cases in  
3 New York. For example, one in every  
4 44 housing units is in foreclosure in  
5 Rockland County, and one in every 48 housing  
6 units is in foreclosure in Putnam County.

7 Legal Services of the Hudson Valley  
8 collaborates with HUD-approved housing  
9 counseling agencies, also funded by HOPP, to  
10 prevent foreclosures. The positive effects  
11 of preventing foreclosure are well-known.  
12 Homeowners who save their homes from  
13 foreclosure have incentive to pay their  
14 property and school taxes and other municipal  
15 bills. They are also more likely to maintain  
16 their homes, which increases the value of  
17 other homes in the neighborhood and property  
18 assessments for tax purposes. Zombie  
19 properties are associated with crime and  
20 nuisance activity, increasing the costs of  
21 police and fire departments.

22 During the 2016 legislative session,  
23 new legislation was enacted to prevent  
24 mortgage foreclosures and address the bane of

1           zombie properties. Continued funding of  
2           legal services and housing counseling will  
3           ensure robust implementation of this  
4           legislation.

5                     Unfortunately, reverse mortgage  
6           foreclosures are increasing. The Office of  
7           the New York State Attorney General is  
8           investigating reverse mortgage servicing  
9           companies' practices -- in particular,  
10          whether the businesses employed tactics that  
11          pushed elderly borrowers into foreclosure.  
12          In our experience, many seniors are facing  
13          reverse mortgage foreclosures that can be  
14          resolved through repayment plans or  
15          Chapter 13 bankruptcy plans, but they need  
16          legal advocacy to obtain this relief.

17                    Tax foreclosures are also a growing  
18          problem, and HOPP legal services providers  
19          are integral in resolving these cases through  
20          repayment plans or Chapter 13 bankruptcy  
21          plans. In both cases, the county and school  
22          district taxes are repaid, along with  
23          interest.

24                    Mortgage foreclosure cases are harder

1 to resolve today than they were even a couple  
2 months ago. Homeowners need attorneys  
3 advocating for them, now more than ever. The  
4 federal Home Affordable Modification Program  
5 ended in December 2016. While HAMP was not  
6 perfectly executed, with respect to loan  
7 modifications, it created some structure and  
8 accountability. Additionally, the sale of  
9 distressed mortgages by federal agencies  
10 means tougher negotiations with private  
11 Wall Street investors.

12 I would like to share with you a  
13 couple of success stories from last year.  
14 These are illustrative of the foreclosure  
15 prevention work that we do every day at  
16 Legal Services of the Hudson Valley under  
17 HOPP funding.

18 In 2015, a Putnam County resident whom  
19 I will call Mary contacted Legal Services of  
20 the Hudson Valley seeking our help in  
21 stopping the imminent foreclosure auction of  
22 her home. Mary is a veteran, a domestic  
23 violence victim, and a working single mother  
24 of a disabled child. LSHV filed a motion for



1 a temporary restraining order, and the TRO  
2 was granted. As a result, Mary was able to  
3 apply for and obtain a loan modification last  
4 year, enabling her to avoid foreclosure and  
5 save her home.

6 In 2016, a Sullivan County resident  
7 whom I will call John contacted Legal  
8 Services of the Hudson Valley. He was in  
9 danger of losing his home to foreclosure and  
10 was concerned that he, his wife, and their  
11 three children would become homeless. The  
12 company that serviced John's mortgage loan  
13 offered him a loan modification, but it  
14 required him to sign the deed to his home  
15 over to the lender at the time of  
16 modification. The loan modification was also  
17 not affordable.

18 LSHV appeared as John's attorney in  
19 the foreclosure action and negotiated a loan  
20 modification for John that did not include  
21 transfer of the deed. The modification also  
22 included loan forgiveness of over \$127,000,  
23 which resulted in a more affordable mortgage  
24 payment.

1           Without HOPP funding, LSHV would not  
2           have been able to help Mary and John save  
3           their homes. We strongly urge you to fill  
4           the gap that will be left when HOPP funding  
5           ends in September 2017 by allocating  
6           \$30 million in funding for foreclosure  
7           prevention services over the next two state  
8           fiscal years -- \$10 million for 2017-2018 and  
9           \$20 million for 2018-2019 and going forward.

10           Thank you.

11           CHAIRWOMAN YOUNG: Thank you.

12           Senator Krueger.

13           SENATOR KRUEGER: Hi. Just one quick  
14           question. I'm a strong supporter of this  
15           program.

16           Which section of the budget does the  
17           existing funding come from? Where do the  
18           contracts come out of?

19           MS. KASPER-BUCKAREFF: The existing  
20           funding comes from the Homeowner Protection  
21           Program, which is a program of the New York  
22           State Attorney General's office. That  
23           funding ultimately came from the settlements  
24           that the New York State Attorney General

1 reached with some of the big banks.

2 Before HOPP funding, there was funding  
3 that was allocated to the New York Homes and  
4 Community Renewal Agency. So we're  
5 suggesting that may be an appropriate vehicle  
6 for this funding.

7 SENATOR KRUEGER: That's exactly where  
8 I was going.

9 And again, I think it's very important  
10 testimony from both you and the previous  
11 speaker. This is the Economic Development  
12 Hearing, obviously, so I was just trying to  
13 put it in the context of my own brain of  
14 where we should really be looking at it for  
15 landing it in the budget.

16 And I agree, I think the Division of  
17 Housing and Renewal is the obvious place.

18 MS. KASPER-BUCKAREFF: Very good. And  
19 thank you for your support.

20 SENATOR KRUEGER: Thank you.

21 CHAIRWOMAN YOUNG: Thank you.

22 Anyone else?

23 Okay, thank you for your  
24 participation.

1                   CHAIRMAN FARRELL: Thank you.

2                   CHAIRWOMAN YOUNG: Our final speaker  
3 of the day is Jay Flemma, staff attorney for  
4 Legal Aid Society of Mid-New York.

5                   MR. FLEMMMA: Thank you, Senators. And  
6 thank you, Assemblymen. My name is Jay  
7 Flemma, and I'm a lawyer with the Utica  
8 office of the Legal Aid Society of  
9 Mid-New York, where I've worked in the  
10 Mortgage Foreclosure Defense Practice Group  
11 for the last three years.

12                   And I just want to underscore the  
13 urgency of the alarm bell that we're ringing  
14 here. There's a desperate need for the  
15 prompt funding for foreclosure prevention  
16 services through the New York Homes and  
17 Community Renewal program, HCR.

18                   We are in the direst of fiscal  
19 emergencies, and that means every homeowner  
20 in New York is. And that means all of your  
21 constituents as well. Without lawyers and  
22 housing counselors, these people face  
23 mortgage foreclosure lawsuits alone, an all  
24 but hopeless task.

1           To give you an example of who we are  
2           and what we do and why the funding is so  
3           critical, please consider that in the last  
4           two years alone, under HOPP, my organization,  
5           the Legal Aid Society of Mid-New York, has  
6           averaged per year closing 192 cases,  
7           preventing foreclosure in 122 cases, given  
8           counsel and advice on another 104, and in  
9           doing so has saved homeowners over \$3 million  
10          in modifications, reinstatements and payoffs,  
11          and saved another \$2.1 million in principal  
12          forgiveness.

13           We are always within our fiscal  
14          allotment and comfortably outperform our  
15          yearly goals. Perennially, we and the  
16          servicers as a whole are one of the best  
17          bargains in the budget. We could not perform  
18          a more important service at a more  
19          competitive price.

20           Foreclosure affects everyone -- of all  
21          ethnicities, socioeconomic backgrounds,  
22          religions, and political ideologies.  
23          Foreclosure doesn't care if you're young or  
24          old, black or white, Christian or Muslim,

1 Democrat or Republican, rich or poor. It  
2 cuts its devastating swath across all walks  
3 of life. And I know all of you recall the  
4 stomach-churning terror of the last crash  
5 with dread and how once proud and prosperous  
6 neighborhoods evaporated into blight.

7           Sadly, the crisis is still with us and  
8 shows no signs of abating. Every metric I  
9 study indicates a second crash is coming,  
10 more devastating than the first.

11           As you all know, HOPP ends  
12 September 30th and the AG was explicit that  
13 they will no longer fund it. Subsequent bank  
14 settlements are now subject to the budgeting  
15 process, and right now they don't include  
16 funding for foreclosure prevention services.

17           However, prior to HOPP, HCR funded the  
18 statewide network, and it's that program we  
19 ask you to please recreate. There are three  
20 critical reasons. First, foreclosures are  
21 steadily increasing still. Second, the  
22 housing market is now enduring similar  
23 triggers to those that precipitated the 2008  
24 crash. Another is likely. And third,

1 mortgage foreclosure law is so complex and  
2 voluminous, unrepresented defendants are  
3 incapable of adequately defending themselves.

4 Just three weeks ago, OCA announced  
5 there were 33,000 new foreclosure cases filed  
6 in 2016, well in excess of the levels we saw  
7 at the beginning of the crisis, about 26,000.  
8 Right now, as you know, there are 72,000  
9 pending foreclosure cases in our courts, a  
10 whopping 26 percent. One out of every four  
11 cases in New York is a mortgage foreclosure  
12 action. No one can say this crisis over.

13 Sadly, these numbers look to increase  
14 as several foreclosure prevention programs  
15 have vanished while crisis-triggering  
16 practices, once forbidden, are being  
17 permitted.

18 As you know, HAMP helped 1.5 million  
19 homeowners keep their homes, but it ended  
20 December 30th and nothing yet replaces it.  
21 This leaves homeowners only with their bank  
22 or servicer's internal modification programs,  
23 many of which are severely limited. This was  
24 a huge blow to mortgage foreclosure defense.

1           Worse still, recently enacted federal  
2           subprime programs are creating new  
3           generations of risky loans. Early last year,  
4           Fannie Mae rolled out the HomeReady program,  
5           a replacement to their notorious "My  
6           Community Mortgage" subprime program. For  
7           the first time, applicants with subprime  
8           credit scores as low as 620 can, for 3  
9           percent down, apply for loans based on the  
10          income of non-related non-borrowers who may  
11          or may not be living in the household.

12          This is dangerous because three of the  
13          biggest indicators of likely default are  
14          reliance on outside income, low down  
15          payments, and low credit scores. Doubling  
16          down on this risky approach appears to be in  
17          the works, as there's green-lighting now of  
18          NINJA loans, the acronym for the dreaded no  
19          income, no job, no assets. Please forgive me  
20          for saying so, but that's textbook urban  
21          dictionary definition of insanity --  
22          repeating a mistake and expecting a different  
23          result.

24          Along with that, the raising of



1 interest rates last December translates  
2 roughly to an average mortgage having an  
3 additional \$75 added per month for the life  
4 of the 30 years.

5 Finally, and I can't stress this  
6 enough, mortgage foreclosure law is as deep  
7 in its complexity as it is voluminous in its  
8 breadth. I have to be both a  
9 transactionalist and a litigator  
10 simultaneously. We all have to have a  
11 mastery of all the areas of law that  
12 intersect with foreclosure -- bankruptcy,  
13 wills and estates, tax, divorce, real estate,  
14 land use, zoning, and disability, just to  
15 name a few.

16 And the sheer number of sources of  
17 mortgage foreclosure law is staggering.  
18 Federal regulations, state statutes, court  
19 rules, CPLR provisions, mortgagee letters,  
20 investor guidelines, stock and bond  
21 prospectuses -- thousands upon thousands of  
22 pages governing the myriad types of loans,  
23 none of which are identical to the other.  
24 And the law changes on almost a daily basis.

1           In my 23 years as an attorney, I've  
2           practiced in many complex areas of law.  
3           That's why I ended up at Legal Aid in the  
4           first place, because I worked in areas that  
5           were known for prolixity, complexity, and  
6           daily changes. But even intellectual  
7           property and Internet law are not as  
8           labyrinthine as the law and practice of  
9           mortgage foreclosure defense.

10           And without lawyers to guide them, the  
11           homeowners will be lost in the byzantine maze  
12           the practice has become. They don't know  
13           anything about appeals of denial,  
14           escalations, notices of error. They won't  
15           know when a servicer is following the  
16           investor guidelines or not. And they don't  
17           know how to file effective complaints to  
18           protect themselves with the CFPB or DFS. And  
19           most of all, they lack the leverage to  
20           negotiate fair resolutions from the banks  
21           that are ruthlessly trying to pry the last  
22           possible cent from their already strained  
23           wallets.

24           Worse still, without a network of

1 skilled, dedicated mortgage foreclosure  
2 defense providers, the homeowners will be  
3 left to the mercy of the myriad mortgage  
4 foreclosure scams that have devastated so  
5 many unsuspecting borrowers.

6 I'm very proud to say that I've been  
7 really good at getting back money from the  
8 scammers. You'll see attached the testimony  
9 of Lesley Vella, a client of mine, who lost  
10 \$6500 to two scammers -- but I did get it  
11 back for her.

12 You good folks, our elected lawmakers,  
13 admirably passed reforms that keep us ahead  
14 of the rest of the nation when it comes to  
15 protecting homeowners. We thank you for  
16 that. The CPR 3408 revisions and the zombie  
17 properties law are great strides.

18 Assemblywoman Weinstein and Senator Klein's  
19 bills on reverse mortgages are a godsend to  
20 the elderly borrowers formerly left  
21 defenseless. And the consumer protections  
22 enacted finally allow homeowners to strike  
23 back at abuses.

24 But that's all for naught without the

1 lawyers who have the skill to use these  
2 protections. Without the lawyers, the  
3 homeowners will be at their mercy. And as my  
4 client Lesley Vella said so well in her  
5 written testimony, everyone has a mortgage,  
6 so everyone is at risk.

7 And I'm very happy to say Lesley came  
8 to me with one day left to answer the  
9 complaint for herself and her 70-year-old  
10 father, who also got sued because he signed  
11 on the note. They initially were denied  
12 their mod. We overcame the denial. We also  
13 got back \$4,000 in costs and attorney fees  
14 that were improper, and I retained the \$6,000  
15 out of the \$6500 that she gave the scammers  
16 as well. You'll read in her testimony that  
17 her life was broken until she came to Legal  
18 Aid. And now, happily, they have rallied.

19 As such, we implore you, promptly fund  
20 the state's foreclosure defense service  
21 providers through the HRC program. Without  
22 us, the homeowners don't have a chance.

23 I'll take questions, please.

24 CHAIRWOMAN YOUNG: Thank you.

1 Any questions?

2 I think we're all set. So thank you,  
3 Mr. Flemma. Thank you for coming.

4 SENATOR KRUEGER: Thank you very much.

5 MR. FLEMMMA: Thank you all very much.

6 CHAIRWOMAN YOUNG: We appreciate  
7 everyone's participation today. And that  
8 will conclude the Joint Budget Hearing for  
9 2017-2018 on Economic Development.

10 And we have several hearings that will  
11 be held next week, beginning with Mental  
12 Health on Monday at 1 p.m.

13 Thank you.

14 (Whereupon, the budget hearing  
15 concluded at 3:28 p.m.)

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