

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
5 ON TAXES

6 -----

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

9 February 7, 2017
10 9:41 a.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 C. Oaks
Assembly Ways & Means Committee (RM)

19 Assemblywoman Sandy Galef
Chair, Committee on Real Property Taxation

20
21 Senator Diane Savino
Vice Chair, Senate Finance Committee

22 Senator John J. Bonacic

23 Assemblyman Michael Cusick

24 Assemblyman John T. McDonald III

1 2017-2018 Executive Budget
 Taxes
 2 2-6-17

3 PRESENT: (Continued)

4 Assemblyman Steven F. McLaughlin

5 Senator James N. Tedisco

6 Assemblyman Edward P. Ra

7 Senator Leroy Comrie

8 Assemblywoman Inez Dickens

9 Assemblyman Daniel Stec

10

11

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1 CHAIRMAN FARRELL: Good morning.

2 Today we begin the seventh in a series
3 of hearings conducted by the joint fiscal
4 committees of the Legislature regarding the
5 Governor's proposed budget for fiscal year
6 2017-2018. The hearings are conducted
7 pursuant to Article 7, Section 3 of the
8 Constitution and Article 2, Sections 31 and
9 32A of the Legislative Law.

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

14 I will now introduce members from the
15 Assembly, and Senator Young, the chair of the
16 Senate Finance Committee, will introduce
17 members from the Senate.

18 We have been joined by Assemblyman
19 Cusick and Mr. Oaks. And Mr. Oaks will tell
20 us who his people are.

21 ASSEMBLYMAN OAKS: Thank you,
22 Chairman. We've also been joined by
23 Assemblyman Ra and Assemblyman McLaughlin.

24 CHAIRMAN FARRELL: Senator Young.

1 CHAIRWOMAN YOUNG: Thank you,
2 Chairman.

3 Joining us on the Senate side is
4 Senator Diane Savino, Senator Liz Krueger,
5 Senator James Tedisco, and Senator John
6 Bonacic.

7 CHAIRMAN FARRELL: Before I introduce
8 the first witness, I would like to remind all
9 of the witnesses testifying today to keep
10 your statement within your allotted time.
11 That's what the clocks are out here for, to
12 limit it so that everyone can be afforded the
13 opportunity to speak.

14 Our first witness will be Nonie
15 Manion, executive deputy commissioner,
16 New York State Department of Taxation and
17 Finance.

18 Good morning. Welcome.

19 ACTING COMMISSIONER MANION: Good
20 morning. Good morning, Chairwoman Young and
21 Chairman Farrell and all the members of the
22 Senate Finance and Assembly Ways and Means
23 Committees. My name is Nonie Manion, and I'm
24 the acting commissioner of the Department of

1 Taxation and Finance.

2 It is my pleasure to appear before you
3 today to discuss Governor Cuomo's 2018
4 Executive Budget, and more specifically, how
5 the budget relates to the work that we do at
6 the Tax Department.

7 At the Department of Taxation and
8 Finance, our mission is to efficiently
9 collect tax revenues in support of state
10 services and programs while acting with
11 integrity and fairness in the administration
12 of the tax laws of New York.

13 We process over 24 million tax returns
14 annually and administer over 40 state and
15 local sales taxes. In addition to the
16 millions of income tax refunds we issue
17 annually, we have also issued nearly
18 7 million property tax relief checks to
19 2.6 million households over the past three
20 years, providing New York homeowners with
21 over \$1.3 billion in much-needed real
22 property tax relief. Through the end of
23 2020, we will have provided over \$4.3 billion
24 in relief.

1 Governor Cuomo's Executive Budget
2 continues the progress we have made over the
3 past six years to change the direction of
4 this state. The state's prudent fiscal
5 practices have limited the annual growth in
6 the state's operating budget to less than
7 2 percent, eliminated structural deficits,
8 and resulted in an upgrade of the state's
9 credit rating to its highest level since
10 1972. This fiscal restraint has provided us
11 with the means to provide much-needed tax
12 relief.

13 Today, every New Yorker's tax rate is
14 lower than when Governor Cuomo first took
15 office. Over the course of the Governor's
16 time in office, we have enacted personal
17 income tax cuts that will save taxpayers
18 \$23.6 billion, and those tax cuts have been
19 focused primarily on the middle class. The
20 middle-class tax cut will save middle-class
21 taxpayers \$6.6 billion over the first four
22 years. By 2025, annual savings will be
23 \$4.2 billion, saving more than 6 million
24 taxpayers an average of \$700 a year.

1 To provide relief to middle-class
2 families who struggle with the costs of
3 providing childcare, the Governor proposes to
4 supplement the Child and Dependent Care
5 Credit, which is already the most generous in
6 the nation, by more than doubling the benefit
7 for families earning between \$60,000 and
8 \$150,000. For example, a family with an
9 income of \$60,000 and childcare costs of
10 \$3,000 will receive a combined federal and
11 state tax credit of \$1,257.

12 To support these and other important
13 initiatives, the Governor is proposing an
14 extension of the top personal income tax
15 bracket for an additional three years.

16 The Governor has also transformed the
17 business climate in New York State over the
18 last six years. New York now has the lowest
19 corporate tax rate since 1968 and the lowest
20 manufacturers' tax rate since 1917. The MTA
21 payroll tax has been eliminated for more than
22 700,000 small businesses and the
23 self-employed. The Governor's tax cuts will
24 save businesses \$7.6 billion over his first

1 two terms.

2 Building on this success, the Governor
3 is proposing a bold new initiative to
4 capitalize on New York's standing as a leader
5 in cutting-edge research in the life
6 sciences. As part of a \$650 million
7 multipronged strategy, the Executive Budget
8 provides three new tax incentives, worth
9 \$250 million over 10 years. Existing life
10 sciences businesses would be eligible for
11 \$10 million in Excelsior tax credits. New
12 life science businesses would be eligible for
13 a 15 percent refundable tax credit on new
14 research and development, with small
15 businesses eligible for a 20 percent credit.
16 Angel investors would be eligible for a
17 credit worth 25 percent of their investment,
18 up to \$250,000 per investor.

19 While the budget builds on
20 tax-reduction actions taken over the past six
21 years, it is also important to recognize the
22 need for the tax law to evolve with changing
23 times. In this regard, the Executive Budget
24 contains several tax reforms to ensure that

1 existing programs are working as intended and
2 modernizes the tax law to reflect the
3 high-tech economy.

4 The rapid advance of technology has
5 brought with it many societal and economic
6 benefits, changing the way we live and work.
7 However, technological advances have also
8 provided more sophisticated tools for use by
9 cybercriminals. At the Tax Department, we
10 work diligently to prevent refund fraud and
11 identity theft on a daily basis. We have
12 made major investments in data analytics and
13 cybersecurity, placing us at the forefront of
14 fraud detection in tax administration
15 worldwide. In the last year alone, our
16 systems identified almost 382,000 suspect
17 refund claims, saving the state and taxpayers
18 over \$554 million.

19 However, while our infrastructure
20 investments help us detect identity theft, we
21 have discovered that our cybercrime laws are
22 severely outdated and are not a deterrent to
23 this type of criminal activity.

24 To combat this new vulnerability, the

1 Governor has proposed a complete package of
2 cybersecurity initiatives. The package
3 strengthens and modernizes New York's
4 cybercrime and identity theft laws, and
5 establishes a new Cyber Incident Response
6 Team to provide cybersecurity support to
7 state entities, local governments, critical
8 infrastructure and schools. This initiative
9 will help deter cybercriminals from
10 victimizing New York State taxpayers and also
11 give us the means to punish those who try.

12 Again, I want to thank all of you for
13 allowing me to appear before you today to
14 discuss the Governor's important initiatives,
15 and I am happy to answer any questions that
16 you may have.

17 CHAIRMAN FARRELL: Thank you.

18 We've been joined by Assemblywoman
19 Inez Dickens.

20 And Assemblywoman Galef, chair, first
21 to ask questions.

22 ASSEMBLYWOMAN GALEF: Thank you very
23 much.

24 I'm glad you're here. I'm sorry you

1 were not at the hearing that we had for real
2 property on what is happening --

3 ACTING COMMISSIONER MANION: I'm sorry
4 I couldn't be there.

5 ASSEMBLYWOMAN GALEF: So I have a lot
6 of questions.

7 I think everybody sitting up here has
8 probably gotten many phone calls from their
9 constituents about the STAR program, the STAR
10 credit, the tax freeze program, and the lack
11 of checks going out to our constituents.

12 I recently got a call from somebody
13 who had had a check made out to their name
14 with the wrong address. And fortunately the
15 mail services knew where the person lived,
16 and it indicated that there were hundreds of
17 people like this in this complex that were
18 getting the wrong checks to the wrong
19 address. So it is very frustrating for us.

20 So some of my questions -- you're
21 going to have more people into this program
22 with the STAR credit. Every time somebody
23 buys a new house, there's going to be another
24 group of people that are going to be getting

1 a check, and probably a check late and a
2 check not on time to be able to pay their
3 school taxes. And that's what we're very
4 concerned about.

5 What modifications are you making to
6 the program so that none of us here will have
7 those frustrations next year?

8 ACTING COMMISSIONER MANION: Okay.
9 This year we were administering the last year
10 of the freeze check, the first year of the
11 relief check, and the first year of the STAR
12 credit check. All of those programs rely on
13 us receiving information from the 1,000
14 assessors across the state and also the
15 school and local taxing entities.

16 CHAIRWOMAN YOUNG: Can you get closer
17 to the mic, please?

18 ACTING COMMISSIONER MANION: Sure.
19 Yes.

20 So to answer your question as to what
21 we'll be doing in order to get those checks
22 out quicker, one of the biggest challenges
23 that we have is the quality of the data we
24 receive from the locals. So from the

1 assessors we receive the tax rolls, and that
2 has the property information and it has the
3 assessment amount. And then that has to be
4 combined with -- if we stay with talking
5 about the STAR credit check, it has to be
6 looked at with the school information.

7 Again, that information is coming in
8 from so many different sources, and it comes
9 in in different forms and formats. And
10 because it has not been used in a
11 standardized way in the past, we get very
12 different information from all of the
13 different localities. Which has led us to
14 have to do a lot of work on our end to
15 combine that information, to interpret that
16 information, and to clean that information
17 up.

18 So given the short time frame that we
19 had to institute the program, we were not
20 able to develop an integrated system that has
21 a lot of automated checks and balances to
22 check these things out. So we've had to rely
23 on our people doing those checks.

24 Whenever you have manual intervention,

1 there's also -- there's a risk for some
2 errors. But the biggest problem is the
3 inconsistency of the data that we get from
4 the locals, because we have not been in a
5 situation where we've been able to mandate
6 the form and format and the codes that are
7 required on the data.

8 For instance, the code to identify
9 that somebody is eligible for an Enhanced
10 STAR credit check, it's different depending
11 on the different assessors and the different
12 schools. So we've had to do a lot of
13 outreach back to the locals to try to figure
14 that out.

15 So to sum it up, the more we use the
16 data, the more back-and-forth interaction we
17 have with the locals, with the assessors, and
18 with the schools, the better quality our data
19 will be. The more time we have to put
20 together a system to gather the information
21 that's required in order for us to do the
22 validation, we'll be in a better place.

23 ASSEMBLYWOMAN GALEF: So what you're
24 saying most likely is people will not get

1 their STAR credit checks in time to pay their
2 school bills in September, it probably will
3 never happen.

4 ACTING COMMISSIONER MANION: Well, if
5 you look at the time frame for the tax bills
6 by September, there are 538 school districts
7 that levy on September 1st. So we would have
8 received information from the assessors in
9 July. We would have had to notify the
10 schools in August. Short time frame to get
11 information from 1,000 people, and especially
12 if it's not of the same form and format, and
13 then to feedback to the schools.

14 Then the schools are issuing their
15 levy data by September 1st. So our ability
16 to do that calculation and the validation to
17 have those checks out by September 15th is
18 really -- it's not practicable until we have
19 a common form and format and we have
20 validation checks put in at the front end
21 with the locals so that we can receive
22 accurate data at our end.

23 ASSEMBLYWOMAN GALEF: I'll just ask
24 one more and then I'll get back later on.

1 You had mentioned to have a different
2 system in place, and in your budget you're
3 asking everybody to verify their tax
4 information for Enhanced STAR through your
5 department. Now, some people pay taxes;
6 that's an easy thing to do. Many seniors
7 have participated already in the income
8 verification system.

9 But you're asking people who don't
10 file, and that are seniors, to be able to
11 send documents up to the state without ever
12 having any knowledge of whether it gets
13 there. Because I don't think -- people have
14 not been able to communicate with your
15 office. They can't find out where the check
16 is. They don't know when it's coming. They
17 don't know what it's for, and they don't know
18 how much it's about.

19 So now you're asking seniors to
20 produce all this information. And, you know,
21 I can understand why you may be doing it, but
22 it is a tremendous burden on them. And is
23 there a way that through the tax assessor's
24 office they could fax up information?

1 Because these seniors are used to going to
2 the assessor's office to do verification on
3 their forms, instead of having to send
4 everything to Albany. You're getting all
5 these pieces of paper, and I don't know when
6 they'll ever get their money.

7 ACTING COMMISSIONER MANION: Well, a
8 problem we'd encounter with that is when we
9 received information from the assessors, when
10 we looked at the first group of 1800 and we
11 did some validation against the tax
12 information that we have on our systems, we
13 found that 20 percent of the people that they
14 had validated for the enhanced were not
15 entitled to it.

16 And I think part of that is people are
17 not as willing to bring their tax information
18 into their assessor's office, and we have
19 that information available to us. We not
20 only have the information from a tax
21 return -- because there are definitely
22 seniors who do not have to file tax returns.
23 And we believe that we could put something up
24 that would be a one-page that would provide

1 us information and we could check against it.
2 Because we are able, not only with the tax
3 returns, we also get wage reporting from
4 employers. So the seniors could have a small
5 job where they make a couple of thousand
6 dollars a year, and they're not required to
7 file a tax return. But we have that
8 information in the wage reporting from the
9 employer.

10 So we have a lot of different sources
11 of information to check against. And based
12 on what we have seen with the data coming in
13 from the assessors, it's really our due
14 diligence to do that.

15 And then also going back to what we
16 had found when we did the reregistration, and
17 we then had to do the recoupment, with the
18 recoupment, we had \$100 million that we had
19 to recoup that was paid to people that were
20 not entitled to it. So this is really our
21 fiduciary responsibility to make sure that
22 the state's money is being paid to those that
23 are entitled to it.

24 CHAIRMAN FARRELL: Thank you.

1 Senator?

2 CHAIRWOMAN YOUNG: Thank you. And
3 good morning, I'm glad that you're here.

4 ACTING COMMISSIONER MANION: Good
5 morning.

6 CHAIRWOMAN YOUNG: I, like my
7 colleagues, have a lot of upset, frustrated
8 constituents who are homeowners who haven't
9 gotten their credit checks. And you seem to
10 be blaming the local assessors for this
11 debacle. My question is, why didn't you have
12 a system in place up-front? And if you
13 needed to have some kind of unified format,
14 why wasn't that articulated to the local
15 assessors?

16 ACTING COMMISSIONER MANION: The
17 timing is a big issue here. And --

18 CHAIRWOMAN YOUNG: But, you know, this
19 was changed in the budget last year, based on
20 your recommendation. So if it was based on
21 your recommendation, why wasn't it thought
22 out ahead of time?

23 ACTING COMMISSIONER MANION: Well, the
24 assumption at the time that it was passed was

1 that we would be able to receive the
2 information from the assessors identifying
3 who was entitled to receive the enhanced and
4 the basic STAR for the STAR credit check.
5 Unfortunately, when we received the
6 information is when we found that there were
7 problems with it.

8 I'm not blaming it on the assessors.
9 I think -- we do have different forms and
10 formats. We have been working with them in
11 trying to get the standard form and format
12 for the freeze checks and for the relief.
13 However, many of these offices only have a
14 couple of people working there, and some of
15 them are only part-time.

16 So we've done a lot of outreach to try
17 to get standard form and format, but it's not
18 something that they've been able to supply to
19 us in this time period.

20 CHAIRWOMAN YOUNG: How many
21 outstanding checks are there right now?

22 ACTING COMMISSIONER MANION: We've
23 sent over 107,000 of the STAR credit checks,
24 and we've sent over 2.1 million for the

1 freeze relief checks.

2 CHAIRWOMAN YOUNG: When my office
3 calls your office, we're told that "We're not
4 going to look into individual homeowners'
5 cases" and that "There's just so many that
6 we're just not going to do it." And so I
7 have upset constituents who are saying to us,
8 "We can't get an answer."

9 So when will they have an answer?

10 ACTING COMMISSIONER MANION: I'm sorry
11 that you heard that. And that's not the way
12 that we would do business. If we had a list
13 of people that were looking to see the status
14 of their check, we would definitely look into
15 it.

16 What we've found is many of the people
17 that registered for the STAR check actually
18 had received the exemption on their tax bill
19 already. So we were expecting 120,000 to be
20 registering, based on what we heard from the
21 assessors; we actually got 210,000 people
22 registering. Many people registered because
23 they heard, okay, you have to register in
24 order to get your STAR. They had already

1 received the exemption.

2 So that was another piece of work that
3 we hadn't anticipated. And what that
4 required us to do was to find those people by
5 going to the individual tax bills that the
6 schools had, identifying whether they
7 received the exemption, and then letting them
8 know.

9 A number of the referrals that have
10 come from the legislative offices, the people
11 have already received their exemption. We
12 know we need to do better in informing people
13 of what their expectations are. I think this
14 really comes down to expectations. We've
15 sent over 30,000 letters to people telling
16 them, You've already received your exemption,
17 you're not going to be getting the STAR
18 credit check.

19 So we need to do a better job of
20 informing people when they are not getting
21 something that they may have expected they
22 were going to get.

23 CHAIRWOMAN YOUNG: So statutorily, the
24 checks were supposed to be received by

1 September 30th, just to follow up with what
2 Assemblywoman Galef was saying, and they
3 needed that money to be able to pay their
4 taxes.

5 Do you think that homeowners deserve
6 to have some kind of interest paid by the
7 state if the checks are late?

8 ACTING COMMISSIONER MANION: Okay, the
9 statute actually states that September 15th
10 or as soon thereafter as practicable.

11 And we do not have any authority to
12 pay interest.

13 CHAIRWOMAN YOUNG: So obviously this
14 is an unworkable system, because it hurts the
15 homeowners. If they don't have the rebate
16 money back from the state, then they have to
17 put that money up themselves. And it's
18 February 7th today, and there are so many
19 people around the state that still haven't
20 received their money.

21 So, you know, it just seems to me that
22 it's an unworkable system. And I guess
23 you're working on fixing it, but it just is
24 really a debacle for so many people. As I

1 said, people are upset about this.

2 ACTING COMMISSIONER MANION: And I
3 understand. I mean, we hear from many of
4 those people too.

5 It needs to be understood that these
6 are people that are just buying their home.
7 So it's not for people that have had the
8 credit in the past and now all of a sudden
9 don't have it on their bill and are waiting
10 for this check. So it's the first time that
11 they're paying their taxes.

12 The other thing to keep in mind is we
13 have to get it right. We have to get it
14 right. This is state money, and we have to
15 make sure that the money is paid in an
16 accurate way, that we're not sending money
17 out to people that aren't entitled to it.

18 CHAIRWOMAN YOUNG: But I also think
19 that the state should keep its promise to
20 people. And there's a statutory deadline.
21 And, you know, people should -- and the
22 agency should adhere to that to keep their
23 promise to the people who are supposed to get
24 these rebates.

1 ACTING COMMISSIONER MANION: As I
2 stated, the statute --

3 CHAIRWOMAN YOUNG: The other thing
4 that I wanted to ask you about is that you
5 said that seniors are not willing to bring
6 their tax information to assessors' offices.
7 You said -- did you say that earlier?

8 ACTING COMMISSIONER MANION: I'm
9 sorry, can you --

10 CHAIRWOMAN YOUNG: You said
11 seniors are hesitant to bring their tax
12 information to assessors' offices.

13 ACTING COMMISSIONER MANION: From my
14 experience, people are hesitant to provide
15 their tax information beyond the Tax
16 Department. We have very strong tax secrecy
17 rules. And from what I've heard from some of
18 the assessors, they'll bring in a lot of
19 different information into their office. I
20 don't know exactly what they bring into the
21 office, but based on what we've seen, where
22 when we see the tax return and they are not
23 eligible, yet the assessor's office had
24 information that made them think they were

1 eligible, I have to believe that -- you know,
2 there's a gap there somewhere.

3 I also wanted to point out, you know,
4 as I mentioned, the statute says September
5 15th or as soon thereafter as practicable.
6 It needs to be noted that 53 school districts
7 don't actually levy their taxes until
8 October, and 68 school districts don't
9 actually levy their taxes until December.

10 CHAIRWOMAN YOUNG: So the system --
11 what you're saying, then, is the system that
12 was set up last year is not workable.

13 ACTING COMMISSIONER MANION: I think
14 the expectations that all the checks would be
15 out by September -- by the end of September
16 is not reasonable.

17 CHAIRWOMAN YOUNG: So I want to switch
18 a little bit to tax checkoffs. Taxpayers are
19 able to donate to a number of tax checkoffs
20 on their income tax forms that fund worthy
21 causes. What is the percentage of donations
22 that the department retains for administering
23 the tax checkoffs?

24 ACTING COMMISSIONER MANION: We don't

1 retain any of it for the administration of
2 that.

3 CHAIRWOMAN YOUNG: You don't?

4 ACTING COMMISSIONER MANION: No. It's
5 done under our appropriation. It's part of
6 administering to the tax laws.

7 CHAIRWOMAN YOUNG: Are the tax
8 checkoffs tax-deductible?

9 ACTING COMMISSIONER MANION: I believe
10 it comes above the line, yes.

11 CHAIRWOMAN YOUNG: What's that?

12 ACTING COMMISSIONER MANION: I'm
13 thinking through where it is on the tax
14 return. I believe it is a reduction in your
15 tax -- taxable income.

16 CHAIRWOMAN YOUNG: I can give you the
17 answer to that. No, it's not.

18 ACTING COMMISSIONER MANION: It's not?
19 Okay.

20 CHAIRWOMAN YOUNG: It's not.

21 ACTING COMMISSIONER MANION: I'm
22 sorry.

23 CHAIRWOMAN YOUNG: Okay.

24 ASSEMBLYWOMAN GALEF: Can you just do

1 your microphone closer? Just somehow your
2 voice is --

3 CHAIRWOMAN YOUNG: Has the department
4 ever thought about putting the information on
5 the tax form or the tax form instructions,
6 that their tax checkoff money is not
7 tax-deductible?

8 ACTING COMMISSIONER MANION: I've not
9 looked into it. So it's something that we
10 can look into.

11 CHAIRWOMAN YOUNG: Okay. And just to
12 your previous answer, it's my understanding
13 that the department does retain
14 administrative costs from the tax checkoff,
15 and it could be as high as 20 percent. So
16 could you look into that?

17 ACTING COMMISSIONER MANION: I will
18 validate it, yes.

19 CHAIRWOMAN YOUNG: Okay, that would be
20 helpful. Good.

21 The other thing that I wanted to ask
22 you about is the income verification program,
23 the IVP. And the Governor has proposed
24 requiring Enhanced STAR applicants, which are

1 senior citizens, as you know, to enroll in
2 the IVP. And this program would allow Tax
3 and Finance to determine annual income
4 eligibility for STAR benefits from income tax
5 filings. And Enhanced STAR applicants would
6 no longer be required to apply annually,
7 provided that they file a New York State
8 income tax return every year. And so this
9 would place a mandate on seniors.

10 The Senate has asked the department if
11 they have ever done any direct mailings to
12 Enhanced STAR recipients to let them know
13 that they can enroll in the IVP. And so I'm
14 just wondering, have you done any direct
15 outreach to seniors? And if you haven't, why
16 not?

17 ACTING COMMISSIONER MANION: We have
18 not. We've provided information to the
19 assessor's office, but we have not done the
20 mailings. And it's something that we could
21 do.

22 CHAIRWOMAN YOUNG: Well, I think that
23 would be great. Because I think if you did
24 that kind of outreach, you have the database

1 as to who is eligible. And I think it would
2 be a great service to seniors if you were
3 able to do that.

4 ACTING COMMISSIONER MANION:
5 Understood.

6 CHAIRWOMAN YOUNG: So thank you very
7 much.

8 ACTING COMMISSIONER MANION: Yes.

9 CHAIRMAN FARRELL: Thank you.
10 Assemblywoman Inez Dickens.

11 ASSEMBLYWOMAN DICKENS: Thank you,
12 Chairs, and good morning.

13 And thank you, Deputy Commissioner,
14 for your testimony.

15 ACTING COMMISSIONER MANION: Good
16 morning.

17 ASSEMBLYWOMAN DICKENS: I just have a
18 very short question. In terms of
19 percentages, what's the tax burden on
20 property owners by capping the STAR benefit's
21 growth?

22 ACTING COMMISSIONER MANION: The tax
23 burden percentage?

24 ASSEMBLYWOMAN DICKENS: How would

1 capping the growth of STAR benefits address
2 the burden, the growing burden on property
3 owners?

4 ACTING COMMISSIONER MANION: Okay,
5 capping the STAR benefit, the burden --
6 there's been a lot of progress that's been
7 made over the last several years on reducing
8 the amount of property taxes, with the freeze
9 and the relief. So I don't have the specific
10 percentage, but the capping, it's -- it's not
11 as big -- the STAR credit is not as big of a
12 part with the other relief and with people
13 keeping the property taxes at a more level --
14 without the big increases, it's not as
15 important that the STAR credit be increased.

16 ASSEMBLYWOMAN DICKENS: And what is
17 your success rate in getting homeowners
18 signed up for the STAR program, particularly
19 in the five boroughs of the City of New York?

20 ACTING COMMISSIONER MANION: I don't
21 have the figures for the success rate. I
22 would have to get back to you, yeah.

23 ASSEMBLYWOMAN DICKENS: Would you,
24 please?

1 ACTING COMMISSIONER MANION: Yes.

2 ASSEMBLYWOMAN DICKENS: Okay, thank
3 you.

4 CHAIRWOMAN YOUNG: Thank you.

5 Our next speaker is Senator Jim
6 Tedisco.

7 SENATOR TEDISCO: Thank you, Acting
8 Commissioner, for being here today and for
9 your testimony. You seem like a very nice
10 person for someone who collects taxes.

11 (Laughter.)

12 SENATOR TEDISCO: But I have to tell
13 you, throngs of my constituents have called
14 me, they've called your department -- I'm
15 sure they haven't directly talked to you. My
16 staff, several of my staff have called your
17 department over the last three or four
18 months. I've called your department over the
19 last three or four months. And all of us get
20 three words. It's not "I love you." It's
21 "We don't know."

22 We've asked them over and over again:
23 When are they coming? We don't know. Why
24 are they so late? We don't know.

1 going to happen?

2 ACTING COMMISSIONER MANION: If I can
3 take --

4 SENATOR TEDISCO: They're going to pay
5 interest, aren't they?

6 ACTING COMMISSIONER MANION: Yes.

7 SENATOR TEDISCO: Yes.

8 ACTING COMMISSIONER MANION: If I can
9 take a minute to explain the difference.

10 With our personal income tax systems,
11 they're very mature. You know, we have the
12 IT systems that are able to do validations,
13 we have checks, thousands of checks as the
14 return comes in. And as you can imagine,
15 your personal income tax return has a lot
16 more data points that need to be checked.

17 We're able to do that, and we're able
18 to do it immediately, and then we run through
19 these fraud checks to identify the
20 questionable. And we stopped 354,000 of it.
21 So we have a lot of success in that area.
22 And that's why I'm confident that, given some
23 time and given experience with the data, we
24 can set up a system where it will be

1 automated and we will be able to do that
2 just-in-time check, so that we're getting
3 accurate data and we're able to provide
4 information.

5 We feel the pain of not being able to
6 answer questions. We actually take a lot of
7 pride in our customer service, and I think we
8 do pretty well with our personal income tax
9 and the other taxes. Our call center takes
10 3.4 million calls a year. And when people
11 call about their income tax refund, we're
12 able to give them information. The reason
13 we're able to give them information is
14 because we have an integrated system that, as
15 it goes through the process, it populates the
16 system with the status of where that refund
17 is. We don't have that system built for this
18 yet. This is the first year.

19 SENATOR TEDISCO: Well, all that's
20 good, but it's cold comfort to a senior
21 citizen who's just trying to make ends meet.
22 You know, this is one of the highest property
23 tax states in the nation. And we've got
24 seniors now who have paid their mortgages off

1 for 30 years -- but guess what, they can't
2 afford to pay their mortgages anymore, and
3 their taxes after that. So they've paid for
4 their house, they own it, now they can't
5 afford the taxes to stay in their house. And
6 I think a lot of our kids who are graduating
7 colleges see that, and there's a tremendous
8 brain drain in New York State.

9 So, you know, I understand there's
10 some excuses. You're utilizing those
11 excuses. And we've given some time here.
12 It's November, December, it's January, it's
13 into February now, and still many of my
14 constituents have not got those checks.

15 So my colleague, I believe, our
16 Senator, our good Senator, our chair here,
17 she's got a bill. I've put in a bill. And I
18 think there's such a saying as what's good
19 for the goose is good for the gander. We're
20 going to give you some time. I put in a bill
21 that says for every day that you and the Tax
22 Department and the State of New York -- I'll
23 call you the goose, because what's good for
24 you, you're not paying a penalty for being

1 late for every day -- you would pay the same
2 financial penalty of interest for every day
3 you're late with giving these rebate checks
4 to the homes of the individuals who, as has
5 been mentioned, counted on these to help pay
6 for their taxes. And you've put many of them
7 in a difficult situation. Not you
8 personally, but I guess the process has been
9 difficult, as you said.

10 So I think one more year, the rest of
11 this year, is a long enough time for you to
12 fulfill our fiduciary obligations to get
13 those checks to our seniors, to everybody who
14 owns a home who wants to keep that American
15 dream, to have that household.

16 And I hope I can get some support for
17 that bill in the Senate and the Assembly,
18 because I think that will expedite the
19 process and it won't be just talking the
20 talk, we'll walk the walk and we'll make sure
21 that if we don't fulfill that, just like you
22 won't accept excuses and the State of New
23 York won't accept excuses -- because this
24 isn't one day, it's not two days, it's not a

1 month, it's not two months, it's not three
2 months, it's going into four or five months
3 right now. And they're going to expect this
4 to be solved.

5 And as their representative, the
6 representative of the people of the
7 49th Senatorial District, and all of my other
8 colleagues here, we expect that of ourselves,
9 we expect that of our leadership like you and
10 the Governor.

11 And so fair warning now. You've given
12 us a promise that this will be all
13 straightened out by September of this year
14 and everybody's going to get those checks in
15 the mail by then. Think that's going to
16 happen?

17 ACTING COMMISSIONER MANION: The
18 unknown is the quality of the data that we
19 get from the locals. So --

20 SENATOR TEDISCO: If we can't get that
21 quality of data, then we have to change the
22 system somehow, so we don't depend upon that
23 quality of data. And I don't --

24 ACTING COMMISSIONER MANION: We agree.

1 We agree. If we had one standard system and
2 one standard way of reporting the
3 information.

4 However, we've done extensive
5 outreaches to the locals, and we've actually
6 sent people out to sit and work with them.
7 But in the end, they don't have the resources
8 to get it done, and so we accept it and we
9 take some of the burden ourselves to try to
10 interpret it.

11 SENATOR TEDISCO: Thank you.

12 ACTING COMMISSIONER MANION: Thank
13 you.

14 CHAIRMAN FARRELL: Thank you.

15 Assemblyman Ra.

16 ASSEMBLYMAN RA: Thank you, Chairman.
17 Just on that same topic of the STAR checks,
18 quickly, is there any thought to, you know,
19 doing something similar to what we have with
20 rebates for income tax, so that people could,
21 maybe through the website or wherever, get
22 specific information as to the status?
23 Because if there's an issue going on, say --
24 you know, you're saying you may have gotten

1 information late from a certain county's
2 assessor or what have you, then it seems that
3 there should be at least, you know, some more
4 specific information specific to that
5 homeowner as to what the status is and how
6 long it's going to take.

7 Has there been any thought of
8 implementing something like that?

9 ACTING COMMISSIONER MANION: That's
10 the objective of having the system that
11 provides information to people about their
12 specific -- the problem we ran into this year
13 is we didn't have the specific information
14 for the individuals to provide to the people
15 on the call center to answer the questions.

16 ASSEMBLYMAN RA: Okay. And so I'm
17 going to move over to a completely different
18 topic.

19 Two -- almost two years ago now, the
20 Legislature adopted a couple of changes
21 regarding the property tax cap and the way
22 PILOTS are computed, as well as BOCES capital
23 projects. And to my knowledge, these still
24 have not been implemented. I know many of us

1 continue to hear from both our local
2 districts and some of the statewide
3 organizations regarding this issue. Where is
4 the department on that, and when can we
5 expect something with that? Obviously we're
6 going on another year that these things are
7 being computed without those changes being
8 implemented.

9 ACTING COMMISSIONER MANION: In
10 looking at that, it's -- you know, the
11 municipalities have an impact, the school
12 districts have an impact, and the taxpayers
13 have an impact too. So that's something that
14 we're looking at, to make sure that the
15 taxpayers continue to have their say.

16 ASSEMBLYMAN RA: Well, I think in
17 particular, you know, if you look at, say,
18 the PILOTS, if we're not computing -- you
19 know, the purpose of these programs, and you
20 know, we can go on for hours about some of
21 the issues with some of those types of
22 economic programs and the way the PILOTS are
23 used. But in a lot of ways they're supposed
24 to be used to maybe expand the tax base. So

1 there's money coming in now that isn't, you
2 know, coming in from property taxes, it's
3 coming in through the PILOT, so that the
4 taxpayer and that local tax base benefits
5 from that.

6 So I think, you know, that particular
7 change, especially, is more -- you know, when
8 that's implemented, it will be more
9 reflective to those local governments,
10 whether it's a school district or a town, a
11 village, a county, of what the actual tax
12 base is coming in.

13 So, you know, I would just reiterate,
14 you know, a lot of people continue to ask
15 about this issue. Like I said, we're going
16 on almost two years since the Legislature
17 adopted those changes. So I would hope that
18 if there are issues related to it that maybe
19 the Legislature needs to address, I hope that
20 those lines of communication are open.

21 But a lot of people are asking what's
22 going on, because we said, Well, we adopted
23 these changes. You know, I have some school
24 districts that have a lot of PILOTS coming

1 through with different development, and they
2 continue to ask what's going on, and I really
3 haven't ever had a really good answer for
4 them.

5 ACTING COMMISSIONER MANION: Okay.

6 Thank you.

7 ASSEMBLYMAN RA: Thank you.

8 CHAIRMAN FARRELL: Thank you.

9 Senator?

10 CHAIRWOMAN YOUNG: Thank you.

11 Senator Bonacic.

12 SENATOR BONACIC: Good morning.

13 ACTING COMMISSIONER MANION: Good
14 morning.

15 SENATOR BONACIC: Thank you for being
16 here.

17 The problems have all occurred because
18 we've changed the system from what we've done
19 in the past three years prior? Is that why
20 all of these distribution problems of getting
21 the STAR checks out in a timely manner are
22 happening?

23 ACTING COMMISSIONER MANION: The
24 change --

1 SENATOR BONACIC: In other words, tax
2 credits as opposed to getting a rebate check.
3 We had a system in place for three years. We
4 changed everything last year. It was put in
5 your lap to implement it. Is that the reason
6 why there's been delays in the
7 implementation?

8 ACTING COMMISSIONER MANION: The
9 change definitely is -- the change was the
10 start of the delays. I think the -- one of
11 the reasons that it's been more delayed than
12 we expected is when we found some of the
13 inaccuracies of the information that came
14 from the locals.

15 So if it was to remain out there,
16 those inaccuracies might not be uncovered.
17 So the benefit of moving it in with us is we
18 have the information to do the validation,
19 and we can avoid having payments be made to
20 people that are not entitled to it.

21 SENATOR BONACIC: Back in late
22 January, the 28th, for our widely distributed
23 local newspaper that goes to five counties,
24 they had four pages with pictures of seniors

1 who haven't gotten their checks. Okay?
2 That, in turn, created more phone calls. And
3 you created a nightmare for many of our
4 elected officials, because if you fail, the
5 perception is we fail in helping them. Okay?

6 Now, can I ask you how many employees
7 you have in your Department of Taxation?

8 ACTING COMMISSIONER MANION: In the
9 department we have 3900.

10 SENATOR BONACIC: Yeah, how many do
11 you have?

12 ACTING COMMISSIONER MANION:
13 Thirty-nine hundred people.

14 SENATOR BONACIC: Thirty-nine hundred?

15 ACTING COMMISSIONER MANION: Yeah,
16 3,900.

17 SENATOR BONACIC: Okay. In this
18 transition to this new system, is it a matter
19 of simply you have sufficient labor and it's
20 the system that you're having problem
21 implementing? Or do you need more bodies to
22 do it more efficiently, in your judgment?

23 ACTING COMMISSIONER MANION: Sure. In
24 the transition, we had to find out -- what we

1 had thought needed to be done was very
2 different from what actually had to be done.

3 So we do have 3900 people, and we can
4 train them up to do a lot of this manual -- a
5 lot of manual work, if required.

6 We didn't expect to get twice as many
7 people registering for the STAR credit check
8 than were entitled to it. But because we
9 did, we had to have people looking at it.
10 But before you can train up 120 people that
11 are used to doing personal income tax type of
12 work, you have to figure out what it is
13 they're looking at and what you need to get
14 from them.

15 So we did a lot of that this year. We
16 were able to move additional people onto the
17 phones to take some of these calls. We're
18 able to move people from our income tax
19 processing to do some of the real property
20 tax processing. So we've been able to make
21 some of those changes. So besides getting
22 the system in place, we've also learned a lot
23 of what needs to be done manually so that we
24 will be better prepared to do it next year

1 with the staff that we have.

2 SENATOR BONACIC: Okay. There are
3 seniors that have gone to a bank to borrow
4 money to pay for their taxes. With the
5 penalty -- you know, with interest. So other
6 members have spoken about actual pain and
7 loss of money because of delay.

8 And the perception is that when people
9 try to communicate with your department,
10 basically you're not in a public relations
11 business and you're not really communicating
12 well in getting your message out. You have a
13 spokesperson that talks about all the
14 successful STAR checks you got out. But
15 there's a loud vocal minority that are still
16 hurting, and we're trying to help them.

17 So my last question to you, if I were
18 to get you a list of the people in my office
19 -- excuse me, in my district that are having
20 these serious problems, is it possible that
21 you could address this list in a prompt way
22 and take care of these people?

23 ACTING COMMISSIONER MANION:

24 Definitely.

1 SENATOR BONACIC: Rather than, you
2 know, talk about the micro picture, you could
3 respond quickly -- assuming everything is
4 verified, of course.

5 ACTING COMMISSIONER MANION: Correct.

6 SENATOR BONACIC: And how quickly do
7 you think they could get their checks if I
8 could get you a list of constituents that are
9 out there hanging, waiting for their checks
10 and perhaps paying interest to a bank?

11 ACTING COMMISSIONER MANION: Over the
12 past several weeks, anyway, as we've received
13 lists, I've been looking at the lists and
14 we've found that there is a decent percentage
15 of these people that have already received
16 the STAR credit. So they're not necessarily
17 people that bought a house this year that
18 would be getting a check. They already got
19 the exemption.

20 And that's where I think that a lot of
21 your constituents have some confusion as to
22 whether they're getting a check or whether
23 they already received the check.

24 We will definitely do that outreach to

1 let them know why they're not getting a
2 check. We did just send another group of
3 about 12,000 letters out to people telling
4 them they had already received the exemption
5 so they wouldn't be getting the check, and
6 please check their tax bill, and if they find
7 that it's different, send that in to us and
8 we will make sure that we remedy it.

9 But yes, we will work through any
10 lists that you have.

11 SENATOR BONACIC: Okay. And would it
12 be all right if I gave you personally the
13 lists, so I know?

14 ACTING COMMISSIONER MANION: Please
15 do. And I will try.

16 SENATOR BONACIC: Okay, thank you very
17 much.

18 ACTING COMMISSIONER MANION: Thank
19 you.

20 ASSEMBLYMAN OAKS: Assemblyman
21 McLaughlin.

22 ASSEMBLYMAN McLAUGHLIN: Thank you,
23 Chairman.

24 And thank you for being here. I'm

1 going to hit on the same topic that my
2 colleagues are, because I can't tell my
3 constituents that are frustrated and angry
4 about not receiving a check that somehow
5 their municipality is not sending it in the
6 right format.

7 ACTING COMMISSIONER MANION:

8 Understood.

9 ASSEMBLYMAN McLAUGHLIN: So my
10 question for you is, what's changed? What
11 format-wise changed from what the old system
12 was to what the new system is? What data are
13 they supposed to send that they somehow
14 apparently are not?

15 ACTING COMMISSIONER MANION: Sure. The
16 old system did not require them sending
17 information to us to use. The old system had
18 them telling the school districts that are
19 doing the tax levy whether to put the
20 exemption on the tax bill or not.

21 So they had that relationship with the
22 school districts. So that relationship, they
23 probably worked through that interpretation
24 in the past. But when we're receiving it

1 from a thousand assessors in almost 800
2 schools, we don't have those interpretations
3 right now.

4 ASSEMBLYMAN McLAUGHLIN: Correct.
5 Okay. So knowing that and knowing that we're
6 implementing a change, why was this change
7 implemented in fairly rapid fashion rather
8 than maybe do it this year and keep the old
9 system in place for another year and be able
10 to proactively communicate to these
11 municipalities, many of whom you have
12 mentioned are part-timers, there may be one
13 or two people working in these small villages
14 or hamlets. I don't understand why we did
15 this. It's a "ready, fire, aim, then blame"
16 mentality around here. So why didn't we take
17 our time and do it right and roll it out
18 correctly, rather than do it as quickly as we
19 can? And we're seeing the results of moving
20 too quickly.

21 ACTING COMMISSIONER MANION: The
22 assumption was that when we received the
23 information from the assessors as to who
24 purchased the homes, you know, after March of

1 2015 -- so when we found out what that
2 universe was, and it was 120,000, the
3 assumption was that we would then have them
4 come in and register and we'd be able to use
5 that information that we received.

6 Unfortunately, when we looked at it,
7 we found it was not as accurate, and so we
8 couldn't just be sending checks out based on
9 that.

10 ASSEMBLYMAN McLAUGHLIN: Okay. Was it
11 modeled before we rolled it out? Did we
12 model this, did we test this at all before we
13 did it?

14 ACTING COMMISSIONER MANION: The --
15 the timing did not allow that.

16 ASSEMBLYMAN McLAUGHLIN: Right,
17 because we moved too quickly.

18 ACTING COMMISSIONER MANION: Correct.
19 Yes.

20 ASSEMBLYMAN McLAUGHLIN: Right,
21 exactly. That's my point, we moved too
22 quickly rather than model it and test the
23 waters before we jumped into this mess.

24 ACTING COMMISSIONER MANION: It was a

1 fast implementation, yes.

2 ASSEMBLYMAN McLAUGHLIN: We certainly
3 know how to collect them on time, though.
4 That we can do. But getting the taxes back
5 to the folks who need it to pay their school
6 taxes is proving a challenge. And given
7 that, that it's clearly a challenge and we
8 have a lot of frustrated constituents out
9 there, which frustrates us -- and I know
10 you're frustrated. I know you don't want
11 these checks to be late --

12 ACTING COMMISSIONER MANION: Correct.

13 ASSEMBLYMAN McLAUGHLIN: -- do you
14 think that the taxpayers of New York that are
15 not receiving the checks to which they're
16 entitled, should they receive a grace period
17 from the State of New York and not have to
18 pay interest or not have to pay a penalty?

19 ACTING COMMISSIONER MANION: So
20 associated with real property, there isn't
21 any interest or penalty.

22 ASSEMBLYMAN McLAUGHLIN: Okay. So
23 it's okay if they're late, there's no problem
24 with them being late with their taxes to the

1 State of New York?

2 ACTING COMMISSIONER MANION: You know,
3 we administer to the tax laws as they're
4 written.

5 ASSEMBLYMAN McLAUGHLIN: Okay. The
6 STAR freeze, I just want to hit on that for a
7 second. The Governor is proposing that we
8 freeze this at 2016-2017 levels. The
9 department, I assume, is noncommittal or
10 supportive of that proposal? Probably
11 noncommittal; right?

12 ACTING COMMISSIONER MANION: Well,
13 supportive, because we've seen how the freeze
14 has really worked on maintaining the property
15 tax levels.

16 ASSEMBLYMAN McLAUGHLIN: Well, the
17 property tax freeze still -- we don't have a
18 property tax freeze completely, we're still
19 seeing some increases; right?

20 ACTING COMMISSIONER MANION: Mm-hmm.

21 ASSEMBLYMAN McLAUGHLIN: Okay. So
22 given that property taxes continue to creep
23 up -- and I'll give the Governor credit for
24 that property tax cap, it was necessary and

1 needed -- is freezing the STAR exemption at
2 current levels, is that not, in effect, a tax
3 increase going forward for the homeowners,
4 since they are now frozen but yet their
5 property taxes will continue to creep?

6 ACTING COMMISSIONER MANION: If the
7 property taxes stay within the freeze, it
8 won't be as much of an impact.

9 ASSEMBLYMAN McLAUGHLIN: A little
10 louder, please?

11 ACTING COMMISSIONER MANION: If the
12 property taxes stay within the freeze amount,
13 within the cap, it won't be that much of an
14 impact.

15 ASSEMBLYMAN McLAUGHLIN: But it's an
16 increase.

17 ACTING COMMISSIONER MANION: Yes.

18 ASSEMBLYMAN McLAUGHLIN: It is a tax
19 increase.

20 ACTING COMMISSIONER MANION: Yes.

21 ASSEMBLYMAN McLAUGHLIN: Okay. With
22 this change to the checks being cut, what's
23 the cost to the state on postage and
24 printing?

1 ACTING COMMISSIONER MANION: We're
2 doing it within our administrative budget.

3 ASSEMBLYMAN McLAUGHLIN: There still
4 has to be a cost.

5 ACTING COMMISSIONER MANION: There is
6 a cost. There is a cost. We've not done the
7 calculation of what the cost is.

8 ASSEMBLYMAN McLAUGHLIN: You haven't
9 calculated the cost of postage or printing or
10 envelopes or anything else, labor involved?
11 You haven't calculated that?

12 ACTING COMMISSIONER MANION: Not
13 individually. We consider it part of our
14 business, what we have to do to administer to
15 the tax laws.

16 ASSEMBLYMAN McLAUGHLIN: But yet you
17 didn't -- did you get a budget increase? Did
18 you get an increase in your budget in last
19 year's budget?

20 ACTING COMMISSIONER MANION: No, we've
21 been flat.

22 ASSEMBLYMAN McLAUGHLIN: But yet you
23 incurred additional expenses, but we don't
24 know what those are.

1 ACTING COMMISSIONER MANION: Correct.

2 ASSEMBLYMAN McLAUGHLIN: Okay. Okay.

3 All right, thank you very much.

4 ACTING COMMISSIONER MANION: Thank

5 you.

6 CHAIRMAN FARRELL: Thank you.

7 Senator?

8 CHAIRWOMAN YOUNG: Senator Comrie.

9 SENATOR COMRIE: Yes, good morning,
10 Commissioner.

11 I just wanted to join my voice to the
12 folks that are asking about the quick
13 resolution of getting the STAR checks out to
14 people. Clearly there are a lot of people in
15 need for that as well.

16 I really just wanted to thank your
17 office for helping with a couple of cases
18 that we've had for businesspeople and for
19 people that have made mistakes in the filing
20 of their taxes, and I appreciate your
21 response to that. And I would hope that we
22 could get your office to help by doing a
23 forum downstate with a lot of my businesses
24 that have filed their papers incorrectly.

1 And hopefully we can set that up as
2 quickly as possible, because it seems that
3 when there's a paper error made in a filing,
4 it just takes forever to get it fixed. And I
5 hope that we can get that. But I really just
6 wanted to take this time to thank you for the
7 responsiveness of the office, even though it
8 sometimes is strange that a person would file
9 status incorrectly and then have to take
10 three years to get it fixed. We need to work
11 on making that paperwork easier.

12 So I'm really just wanting to take the
13 time to thank you today, and it's interesting
14 that we had democracy in the house, but I
15 hope that the rest of the day goes a little
16 bit smoother for you. Thank you.

17 Thank you, Madam Chair.

18 ACTING COMMISSIONER MANION: Thank you
19 for recognizing it. And we will definitely
20 work with you, because the more we can work
21 with taxpayers and getting their returns
22 right, the more efficient we are.

23 SENATOR COMRIE: Thank you.

24 CHAIRWOMAN YOUNG: Thank you, Senator.

1 CHAIRMAN FARRELL: Assemblyman Oaks.

2 ASSEMBLYMAN OAKS: Yes, thank you very
3 much.

4 A few questions off the rebates and
5 the checks, which have been obviously a main
6 focus, and I share a lot of the concerns that
7 have been shared today as well.

8 But in the proposal and in the budget,
9 the financial data match system is being
10 changed by Tax and Finance, where they would
11 no longer have to file a warrant to receive
12 information about a tax debtor from a
13 financial institution. So just wondering why
14 we're doing this, and are there going to be
15 measures that would protect taxpayer privacy
16 with that?

17 ACTING COMMISSIONER MANION: What
18 we're looking to do there is to be able to
19 get the information from the banks as to
20 whether the individuals have accounts there,
21 prior to issuing the warrant. So it's an
22 efficiency. It's making sure that we're
23 efficient and looking at the information, and
24 without the additional burden on the

1 taxpayer.

2 ASSEMBLYMAN OAKS: Is there concern --
3 you know, the privacy issue just -- you know,
4 that's opening up government, being able to
5 look, I guess, more without getting that
6 information.

7 Are there protection things, from your
8 perspective, that we are going to be doing so
9 that, you know, privacy will be maintained?

10 ACTING COMMISSIONER MANION: Well, we
11 currently receive information from the banks
12 for our warranted debt. And this would just
13 open it up so that we would receive the
14 information for debt prior to it being
15 warranted.

16 We have security in place. Taxpayer
17 information is made very secure. Many of you
18 have asked for information, and we've had to
19 -- we're very limited in what we can tell you
20 because tax secrecy is critical.

21 ASSEMBLYMAN OAKS: Thank you. With
22 the public safety communication surcharge, I
23 know there's a proposal to extend that fee
24 that we do now to prepaid phones. And I know

1 some of that money is supposed to go to local
2 governments and whatever. I'm just wondering
3 if the amounts -- if we're going to collect
4 that, if those amounts are going to be
5 reallocated to the counties to reflect, you
6 know, that new revenue that we're going to be
7 taking in.

8 ACTING COMMISSIONER MANION: The
9 revenue will increase. As you know, we
10 currently collect that for, you know, for
11 landlines and for the monthly pay. You know,
12 if you have a subscription for a cellphone.

13 This is just for the prepaid, and
14 really just to balance it. And the
15 distribution will be the same.

16 ASSEMBLYMAN OAKS: And so are counties
17 -- if this passes and we make this change,
18 our counties can anticipate some increased
19 revenue from those?

20 ACTING COMMISSIONER MANION: If they
21 currently receive it, then they should have
22 increased, yeah.

23 ASSEMBLYMAN OAKS: Last week during
24 the Local Government hearing, NYCOM discussed

1 that some of the ESCOs, the energy service
2 companies, were not collecting -- or not
3 paying, I should say, the gross receipts tax.
4 And I know that your department had put out
5 an advisory opinion saying that they should
6 be paying that. Has the department done
7 anything to enforce that or to help that
8 happen? I know there was concern that those
9 resources were not being collected that would
10 ultimately end up with those local
11 governments.

12 ACTING COMMISSIONER MANION: I don't
13 have the specifics on that. I'd have to look
14 into it.

15 But generally speaking, if we do an
16 advisory opinion and it's deemed to be
17 taxable, it's something that our audit
18 division looks at and we take a look at the
19 people that are filing the tax to determine
20 if they're filing accurately.

21 ASSEMBLYMAN OAKS: Perhaps that ought
22 to be something that we negotiate as a part
23 of this budget, maybe with a change to
24 clarify that.

1 In the budget there are a few
2 enforcement initiatives that have been
3 proposed. They're projected to, I think,
4 bring in \$12 million. Are these the result
5 of fraud cases or a few specific cases that
6 we see out there, or just focused at, you
7 know, a revenue increase for the state?

8 ACTING COMMISSIONER MANION: No, it's
9 really to collect the revenue as intended by
10 the law. And we find that sometimes our
11 ability to enforce has some loopholes
12 associated with it, or has some gaps for our
13 enforcement. And so these are to close those
14 so we can really modernize and collect the
15 tax that was due when the law was passed, and
16 the intention of the law.

17 ASSEMBLYMAN OAKS: Thank you.

18 CHAIRMAN FARRELL: Senator?

19 CHAIRWOMAN YOUNG: Senator Krueger.

20 SENATOR KRUEGER: Good morning.

21 ACTING COMMISSIONER MANION: Good
22 morning.

23 SENATOR KRUEGER: So I've heard from
24 many of my colleagues how concerned they are

1 about the tax checks not going out. We used
2 to have an exemption system instead of
3 sending checks out in the mail, and somebody
4 thought it was a really good idea to
5 taxpayers before Election Day. I was never
6 so wild about that.

7 What if we just go back to the old
8 system? Will all these problems go away?

9 ACTING COMMISSIONER MANION: The
10 problem of the accuracy will not go away. If
11 we go back to the old exemption, the -- we
12 wouldn't be getting the information to check
13 to make sure that it's accurate, to check on
14 the income -- whether they fall under the
15 income requirements.

16 SENATOR KRUEGER: So you'd have a new
17 assignment of collecting the data, but you
18 wouldn't actually have people waiting around
19 for checks to come.

20 ACTING COMMISSIONER MANION: It would
21 be more of a matter of -- if the locals were
22 giving the exemption and we determined that
23 it's not -- that the person wasn't eligible
24 for it, then we would be billing them. And

1 that's never a good idea.

2 And this is really only for the people
3 that purchased homes after March of 2015. So
4 it's a slow roll-in, as compared to the
5 entire universe that receives the STAR
6 benefits.

7 SENATOR KRUEGER: So the only people
8 being affected are people who bought homes in
9 the last year?

10 ACTING COMMISSIONER MANION: Correct.
11 However, I think part of the expectation
12 problem that we have is other people think
13 that they should be getting this check, and
14 they've already received the exemption.

15 SENATOR KRUEGER: Thank you.

16 So you answered one question that you
17 can't discuss criminal activity for
18 individuals, obviously. But what's the
19 department's estimate of how many New Yorkers
20 fail to pay correct taxes and how much we're
21 losing because people are not in fact
22 intentionally paying their taxes correctly?

23 ACTING COMMISSIONER MANION: Okay.
24 Each year we collect about \$3 billion in our

1 enforcement money. Prior to --

2 SENATOR KRUEGER: Three billion or
3 3 million?

4 ACTING COMMISSIONER MANION: Three
5 billion of just state money, through our
6 enforcement efforts.

7 Before we select a taxpayer to audit,
8 to spend our audit resources on, they've
9 already gone through a strict interrogation
10 using all of our data. So we compare the
11 data that comes in on the tax return to
12 third-party sources. So for sales tax we
13 look at like the beer, wine and liquor sales,
14 we look at cigarette sales, we look -- we
15 have a lot of third-party information. We
16 also have information from their corporation
17 tax returns.

18 All of that information goes into our
19 data warehouse, and we use our analytics to
20 determine those that are more likely to have
21 compliance issues than not. Because if
22 somebody is trying hard to get it right, we
23 want to leave them alone. We want to spend
24 our time on those that are not getting it

1 right.

2 So our efforts at doing that, not only
3 with our field audits, where we do about
4 13,000 a year, we've really increased what
5 we've been able to do through our desk audit
6 program, where we have over half a million
7 desk audit programs that go out every year,
8 where it's more of a single issue, where
9 we're looking at a personal income tax return
10 and the itemized deductions seem larger than
11 normal, and we don't have anything to
12 validate it, so we will send something out to
13 those individuals.

14 And I think through those efforts what
15 we've done is we've really put a message out
16 to the taxpayers of New York that we're
17 looking at the return and we're looking to
18 make sure that it's accurate.

19 So I can't really say what we don't
20 get. I can tell you what we do get, and our
21 efforts to make sure that people are
22 complying.

23 SENATOR KRUEGER: Switching to
24 internet sales, there's a proposal to expand

1 collection of sales tax on larger marketplace
2 providers through the internet.

3 ACTING COMMISSIONER MANION: Correct.

4 SENATOR KRUEGER: We live in a world
5 where there are fewer and fewer
6 bricks-and-mortar stores selling things and
7 more and more products being sold through
8 large online marketplaces, so warehouses and
9 delivery companies are growing, but retail
10 stores are shrinking.

11 This proposal would increase our sales
12 tax revenue by about \$68 million in the
13 implementation year, \$136 million annually.
14 As I understand the proposal, we're only
15 applying this tax to marketplace online sales
16 companies that sell more than \$100 million a
17 year.

18 ACTING COMMISSIONER MANION: Correct.

19 SENATOR KRUEGER: In the current
20 system of sales tax, whether you're a tiny
21 store or Walmart, you pay the same level of
22 sales tax.

23 Under this system -- that would be
24 larger and larger going forward, because this

1 is how the economy is going -- you would
2 actually be having two different standards
3 for the collection of sales tax depending on
4 the size of the company -- and I'm not sure I
5 think \$99 million a year is a small company.

6 Explain the policy justification for
7 not having equal treatment across the board
8 of sales tax collection on internet sales.

9 ACTING COMMISSIONER MANION: Okay, let
10 me give a little clarification.

11 These marketplace providers, besides
12 having their own business that they
13 provide for, they also provide the
14 marketplace for all of those thousands of
15 small businesses. So when they are doing the
16 collection, when they're collecting the
17 money, doing the money transaction for all of
18 those individual small businesses, they will
19 be remitting to the state that sales tax.

20 The individuals, all of those small
21 individuals, will not have to do that
22 bookkeeping. So it really eases the burden
23 on those, on the small businesses. The
24 marketplace are really acting as an agent for

1 us, to assist us in collecting the taxes
2 already due.

3 SENATOR KRUEGER: But is there
4 anything then that prevents the marketplace
5 models from stopping at \$99 million and just
6 becoming a set of one company, 42 subsidiary
7 different companies, to avoid taxes?

8 ACTING COMMISSIONER MANION: I think
9 the marketplace business is just thriving.
10 In 2015, \$100 billion worth of business was
11 done through internet sales, and it's
12 increasing by 20 percent. So it's just
13 increasing so much, I believe that if they
14 were to do that just to avoid having to
15 administer the tax, really collect and pay
16 the tax, they would really be compromising
17 their business model.

18 SENATOR KRUEGER: And because it is
19 thriving -- we both agree on that --

20 ACTING COMMISSIONER MANION: Yes.

21 SENATOR KRUEGER: -- this doesn't seem
22 that much sales tax revenue for a sector of
23 the economy that is doing such an enormous
24 amount of business.

1 ACTING COMMISSIONER MANION: And
2 that's because a lot of them are already
3 collecting and paying. So many of the bigs
4 are already collecting and paying. You know,
5 we've audited them, and we've got them
6 compliant.

7 What this touches on are those
8 third-party businesses. So if you were to go
9 on to one of these marketplaces and you were
10 purchasing 10 items, seven of them might come
11 from the big business that's already paying,
12 but three of them might come from some of
13 these third-party vendors that are selling
14 through the marketplace.

15 What this captures is the tax
16 associated with those three items.

17 SENATOR KRUEGER: So we know Amazon
18 already participates.

19 ACTING COMMISSIONER MANION: I'm
20 sorry, what was that?

21 SENATOR KRUEGER: Amazon already
22 participates.

23 ACTING COMMISSIONER MANION: Correct.

24 SENATOR KRUEGER: Does Alibaba?

1 ACTING COMMISSIONER MANION: I can't
2 speak to that.

3 SENATOR KRUEGER: Does Wayfair?

4 ACTING COMMISSIONER MANION: I can't
5 speak to that.

6 SENATOR KRUEGER: Can you get me a
7 list of the companies that are participating
8 and the companies you think will be captured
9 by this change of law?

10 ACTING COMMISSIONER MANION: We'll
11 have to look into it, because some of it is
12 taxpayer information.

13 SENATOR KRUEGER: Thank you.

14 Shifting to the film tax credit, it's
15 an enormous tax credit. It's being extended
16 for multiple years fairly early in its time
17 frame. Do you think we ought to be doing an
18 independent cost-benefit study of the value
19 that it's generating for New York State?

20 ACTING COMMISSIONER MANION: The cost
21 estimate study is best done by Empire State
22 Development, because they're really looking
23 at what the benefit of it is. We really
24 administer to the payment of the credit. So

1 it would have to be something done by the
2 other agencies.

3 SENATOR KRUEGER: So when Empire State
4 Development testified the other day -- and
5 I'm sorry, I didn't bring that folder with me
6 -- they estimated a job creation number that
7 was impossible, except that when you went
8 back and looked at the calculation, it wasn't
9 full-time equivalent. So if you get a job
10 for three weeks, that counted as a job. So
11 you conceivably might get 10 three-week jobs
12 in the industry over the course of a year,
13 but you're getting counted as 10.

14 So do you do any kind of evaluation
15 like that, or you just take at face value
16 whatever the other agency tells you?

17 ACTING COMMISSIONER MANION: We work
18 with the other agencies. We don't do
19 anything independently.

20 SENATOR KRUEGER: On other tax
21 credits, I have raised concern over the years
22 that you have a not very strong or robust
23 model for evaluating the value of different
24 tax credits and rebates in our tax structure,

1 but we give out billions of dollars a year
2 through those tax credits and rebates and
3 exemptions.

4 Is there anybody in your department
5 who is reevaluating the system you use to
6 evaluate the effectiveness of all of these?
7 And is there something that we could look at
8 that helps us understand better the modeling
9 you're using to make the calculations of the
10 effectiveness of different tax expenditures?

11 ACTING COMMISSIONER MANION: Well, we
12 have the dollars associated with the credits,
13 but the benefits really have to be provided
14 by the subject matter experts of the other
15 agencies. So we don't have the complete
16 picture.

17 SENATOR KRUEGER: And you never talk
18 to them or review anything?

19 ACTING COMMISSIONER MANION: We
20 provide information. A lot of our
21 information is public that they could use.

22 SENATOR KRUEGER: And that impacts a
23 very large number of different agencies. And
24 sometimes it's not agencies, it's actually

1 authorities. In fact, a disproportionate
2 amount ends up with authorities.

3 So nobody in the state government is
4 systemically looking at the effectiveness of
5 any of these tax expenditures, you just print
6 them up in a book every year as the tax
7 expenditure report showing us how much each
8 of these line items is costing us?

9 ACTING COMMISSIONER MANION: I can't
10 speak to anybody within state government. I
11 can speak to within the Tax Department, we're
12 not looking at it.

13 SENATOR KRUEGER: I'll have more
14 questions in another round. Thank you.

15 ACTING COMMISSIONER MANION: Okay.

16 CHAIRMAN FARRELL: Thank you.

17 Mr. McDonald.

18 And, Mr. Oaks, you have someone?

19 ASSEMBLYMAN OAKS: Yes, Mr. Stec has
20 joined us.

21 ASSEMBLYMAN McDONALD: Thank you,
22 Mr. Chairman.

23 Commissioner, thank you for being
24 here. I'm sorry the department wasn't here

1 last week when we had a hearing with --
2 actually, I think only the Assessors
3 Association was here. So my comments are
4 going to be focused on STAR.

5 And although I wasn't here earlier, I
6 had understood that there were a couple of
7 other comments made about it. And I want to
8 express my concern and disappointment about
9 the program and how it's rolled out.
10 Candidly, I've maybe gotten 10 or 15 calls.
11 It doesn't sound like a lot, but once again,
12 these are new owners. So it is a lot,
13 because it's only going to continue to grow
14 unless we see some major improvement.

15 And I guess part of my concern is why
16 are we doing this? I don't -- you know, from
17 my perspective we suffer from a terrible
18 perception, which is a reality, that we have
19 a very heavy tax burden. It's in the
20 business community, but it's also at every
21 single home.

22 And at the same token, what we've done
23 now is we shine a brighter light on the
24 school tax. You know, before, you'd get your

1 250 or whatever it would be off of it -- you
2 would see it, it would be demonstrable, you'd
3 see it, people would say, okay, good. Those
4 would get factored into their mortgage or
5 whatever their -- the mortgage component.

6 So now we're basically saying, yeah,
7 our taxes are pretty high -- and by the way,
8 if you wait long enough, we'll send you a
9 rebate check.

10 I still -- I asked our chair last year
11 during the budget process -- yes, the
12 Legislature approved it as part of the
13 overall budget package, so we share some of
14 the responsibility. But I'm trying to figure
15 out why we did this. Why did we subject
16 ourselves to this? Because I don't know if
17 I've seen anything productive yet at this
18 stage of the game.

19 ACTING COMMISSIONER MANION: Well, a
20 couple of positives that come from it is the
21 schools do receive their money sooner,
22 because they receive it from the individual
23 taxpayers.

24 The other is the accuracy of who's

1 actually receiving the credit check.

2 ASSEMBLYMAN McDONALD: So, yeah, to
3 that point -- it was about two years ago, and
4 I don't know if you were here at the time --
5 or three years ago, we went through this
6 exercise to clean up what had happened. And
7 I thought, this is great, we're done, we've
8 got a newer process. I'm assuming, since all
9 the assessors work with software provided by
10 the state, that this would be a seamless
11 process and we wouldn't have to be going
12 through any extra efforts.

13 And sure enough, we changed the
14 program. Why? I mean, you know, I can only
15 speak for the assessors I know. The ones I
16 know are pretty darn good. They provide
17 great customer service, they make sure that
18 people get exemptions that they're entitled
19 to, not that they're not.

20 Are we saying in that short one-year
21 period that there was problems in regards to
22 exemptions being granted?

23 ACTING COMMISSIONER MANION: I believe
24 you're referring to the registration that we

1 did a few years ago, where --

2 ASSEMBLYMAN McDONALD: The
3 registration process. Which was a good
4 thing. It cut out a lot of, you know,
5 inaccurates and accidents that happened, no
6 doubt about that.

7 ACTING COMMISSIONER MANION: We did.
8 And we were able to recoup \$100 million.

9 ASSEMBLYMAN McDONALD: Right. Which
10 is good.

11 ACTING COMMISSIONER MANION: And then
12 in order to administer for this, what we did
13 is we received information from the
14 assessors. And some of the assessors' rolls
15 were perfect, and we were able to use the
16 information they provided, it checked out, it
17 validated. But then there were others that
18 were not as good.

19 And so we had to -- we have to do our
20 own validation, our own income verification.
21 And the income verification could come from
22 those that file tax returns -- or it could be
23 for some that don't file tax returns, and we
24 have to look to other sources. So it's when

1 we're doing that other validation that we're
2 finding that some of the people that were
3 identified as entitled to the enhanced, the
4 income of \$84,550, might have actually been
5 making like \$95,000 or \$110,000.

6 We actually did find some people that
7 didn't qualify for the relief, so the income
8 verification there is \$275,000. And they
9 were not filing tax returns, so they're
10 actually part of our nonfile program. So
11 they're not even filing a tax return for
12 their income, much less -- so therefore, we
13 can't send them that relief check.

14 ASSEMBLYMAN McDONALD: Well, that's my
15 -- well, part of my concern is at the lower
16 end of the income level. I know, from my own
17 experience as a mayor, we used to literally
18 send the assessor to their house to get them
19 to fill out the form, because we know they
20 don't file.

21 So are we going to be able to catch
22 those people going forward? Because I don't
23 think you know who they are going to be yet,
24 because you don't know what house they're

1 going to buy. Unless I'm missing something.

2 ACTING COMMISSIONER MANION: We do --
3 we do it through our data matches. You know,
4 and we do have a lot of information.

5 You know, the personal income tax
6 file, we get information from the employers.
7 So every employer needs to report to us what
8 the earnings were and what the withholdings
9 were. So if you have a senior that is making
10 \$2,000 working at a small job, you know, they
11 may not consider that income. You know,
12 they're not really thinking about that. And
13 they didn't have to file a tax return. But
14 we do have a record of it.

15 And what we've found is some of them
16 have \$2,000 here and \$2,000 there, and they
17 have investment income of another group
18 there. Yet I'm sure when they're talking to
19 the assessors, they're not thinking that
20 they're making that much money.

21 ASSEMBLYMAN McDONALD: Thank you.

22 ACTING COMMISSIONER MANION: Thank
23 you.

24 CHAIRMAN FARRELL: Thank you.

1 Senator?

2 CHAIRWOMAN YOUNG: Senator Savino.

3 SENATOR SAVINO: Thank you. Thank
4 you, Senator Young.

5 I just actually have one question. I
6 know there's been extensive discussion about
7 the failures to deliver the STAR rebate
8 check. I'm not going to reiterate those
9 questions.

10 But I do have a question about the
11 head count and the size of your agency. Can
12 you give me the number of full-time
13 equivalents that you currently have?

14 ACTING COMMISSIONER MANION: Okay, our
15 budget has 4,276 in it. Right now we're at
16 about 3900. So our staffing does fluctuate.

17 SENATOR SAVINO: So it has shrunk.
18 Are there any plans to hire?

19 ACTING COMMISSIONER MANION: What we
20 do, we hire a lot of people for our peak
21 seasons. So right now we're in the middle of
22 our personal income tax season, and we're
23 running two shifts to process the returns.
24 And so we hire hourlies. And we tell them

1 when they're hired for how long they're going
2 to work, and then at the end of the season
3 they're let go.

4 SENATOR SAVINO: In the in-between,
5 there's no -- is there a feeling that there's
6 no need for these workers? With all these
7 complex new tax programs that the state has
8 adopted, whether it's the film tax credit or
9 the STAR rebate or converting the New York
10 City PIT -- I mean, I would think that
11 there's sufficient work to maintain this
12 workforce, because I think part of the
13 problem might be that we've been starving
14 these agencies and we're also -- you know,
15 you've heard -- if you've heard me speak at
16 these budget hearings, I have a tremendous
17 concern about the fact that we have an aging
18 workforce that is retiring far too
19 frequently, and we're losing experienced
20 staff that is able to do these things, these
21 very complex programs, far more efficiently.

22 So I would hope that there's some
23 succession planning going on in your
24 agency --

1 ACTING COMMISSIONER MANION: There is.

2 SENATOR SAVINO: -- especially
3 because, you know, taxes are a very
4 complicated thing. And when people don't get
5 their taxes back, they get very angry. And
6 when they pay their taxes and they're not
7 credited correctly, they get very angry. And
8 we hear from those people, and then we get
9 very angry. And we just don't want to see
10 angry people.

11 ACTING COMMISSIONER MANION: There's
12 not a shortage of work. However, we've been
13 very successful with our automation. Our
14 electronic filing is up over 90 percent for
15 almost all of our taxes. And what that
16 allows us to do is the system interrogates
17 it. The system does a lot of work. And it
18 only kicks out the exceptions for our staff
19 to work with.

20 And as I've mentioned before, with the
21 real property we don't have that system in
22 place right now. But that's the objective,
23 where we're building the same type of system.

24 We also do a lot of data analytics to

1 determine where we should be having our staff
2 spend their time.

3 And we reassign people, too. So for
4 an example, when sales tax filing is due,
5 it's due on the 20th of every third month.
6 And we know that we're going to get a lot of
7 phone calls during that time. So we have a
8 web filing that we put up with the assistance
9 -- we work very closely with ITS. We put up
10 a web filing system. And over 90 percent of
11 the people use it.

12 When it's the time for them to file,
13 we know we're going to get a lot of phone
14 calls and people are going to have questions
15 with it. We move people from doing other
16 work to handling those phone calls to manage
17 that peak. And we know how to do that
18 because we've been doing it for a lot of
19 years. We know what to expect.

20 With a new system, it's difficult to
21 understand what to expect, but we get better
22 with it every year.

23 SENATOR SAVINO: I hope you're right.
24 I just think you really should begin thinking

1 about succession planning, because the tax
2 laws are only getting more complicated in
3 this state, partly because of people like me,
4 and I think we need to have more staff as
5 opposed to less staff.

6 So I want to thank you for your
7 patience today. And on that note, I am
8 finished, Senator Young.

9 CHAIRWOMAN YOUNG: Thank you.

10 CHAIRMAN FARRELL: Thank you.

11 CHAIRWOMAN YOUNG: Still us? Okay.

12 Just a couple of follow-ups,
13 Commissioner.

14 The Governor proposes to implement a
15 vapor product excise tax of 10 cents per
16 fluid milliliter on vapor products, and
17 regulate vapor products similar to cigarette
18 and other tobacco products, such as minimum
19 age to purchase and so on. I'm just curious
20 about this. Are there any other states that
21 impose an excise tax on vapor products, do
22 you know?

23 ACTING COMMISSIONER MANION: Yes, I
24 believe there are a couple of states that are

1 doing the same.

2 CHAIRWOMAN YOUNG: Okay. And how did
3 you arrive at the rate 10 cents per fluid
4 milliliter? I'm just curious about that.

5 ACTING COMMISSIONER MANION: The vapor
6 products, they really don't have a lot of
7 consistency to them. So it's not like we
8 could say for, you know, a milliliter of
9 nicotine it needs to be this much. So the
10 only real practical way is to go with the
11 milliliter of liquid.

12 CHAIRWOMAN YOUNG: Okay. So I heard
13 you just say that there's a lot of
14 inconsistency. But does it roughly work out
15 to the same as on a pack of cigarettes, or
16 no?

17 ACTING COMMISSIONER MANION: It's all
18 over the board. You know, depending on where
19 you purchase it from, to that amount.

20 CHAIRWOMAN YOUNG: Okay. One of the
21 things that happened in 2016 is that the
22 Governor announced the opening of 85 free tax
23 filing assistance sites across the state,
24 which I think is really great, because you're

1 bringing government to the people and people
2 who may have questions about filing their
3 taxes.

4 Can you report the number of taxpayers
5 who used these sites in 2016?

6 ACTING COMMISSIONER MANION: I don't
7 have those numbers with me. The number was
8 not huge.

9 However, I feel that we did address a
10 population that needed our assistance. So if
11 you're looking at it based on the 11 million
12 taxpayers we have filing, the numbers would
13 be very small. But if you're looking at our
14 ability to reach out to people that need us,
15 I think it was very successful.

16 CHAIRWOMAN YOUNG: Good.

17 So how do you get the information or
18 the word out to people that these sites are
19 available?

20 ACTING COMMISSIONER MANION: We do
21 press releases. We have information on our
22 web. So on our web it will show where these
23 sites are.

24 What we've done this year is we've

1 focused it more where the need was. So we
2 reduce the number -- you know, if we had
3 sites where nobody was coming in, we're not
4 using our staff for that. We're putting it
5 where they're needed.

6 And so based on the experience that
7 we've had, we've really fine-tuned to provide
8 the services to those that need us.

9 CHAIRWOMAN YOUNG: Do you provide
10 services through a mobile unit in rural
11 areas?

12 ACTING COMMISSIONER MANION: We have
13 used the mobile system to go to the rural
14 areas, yes.

15 CHAIRWOMAN YOUNG: And how has the
16 reception there been? Has it been pretty
17 good or --

18 ACTING COMMISSIONER MANION: We got a
19 few. We think that with each year it will
20 increase. And with your assistance in
21 getting word out to the constituents, I think
22 it will increase and be more beneficial.

23 CHAIRWOMAN YOUNG: So you plan on
24 continuing to service rural areas?

1 ACTING COMMISSIONER MANION: We
2 certainly do.

3 CHAIRWOMAN YOUNG: Good. Thank you.
4 Senator Krueger.

5 SENATOR KRUEGER: Thank you again.

6 Since Senator Young just asked you
7 about the vapor products, that would only
8 apply to tobacco-related vapor products, not
9 marijuana-related vapor products?

10 ACTING COMMISSIONER MANION: Correct.
11 Marijuana is separate, yeah.

12 SENATOR KRUEGER: Thank you.

13 Senator Savino reminds me that medical
14 marijuana is already taxed. But this would
15 be the equipment that is used for people, so
16 I just wanted to double-check we weren't
17 going to be double-hitting them, so to speak.
18 Thank you.

19 The Governor puts a proposal for
20 upstate transportation network companies into
21 the budget, with a 5.5 percent tax.

22 ACTING COMMISSIONER MANION: Correct.

23 SENATOR KRUEGER: How does that
24 compare to the taxes we apply to existing

1 recognized liveries, such as taxis and black
2 cars and other things that may be defined as
3 liveries in the State of New York?

4 ACTING COMMISSIONER MANION: Okay,
5 those existing liveries are subject to sales
6 tax. And across the state, sales tax is
7 higher than 5.5 percent. So it's actually a
8 reduction in tax.

9 So the cars in New York City that are
10 used for this, they're subject to sales tax.
11 So the upstate would actually be a lower.

12 SENATOR KRUEGER: And what's the
13 justification to have a lower tax rate for
14 these vehicles versus other existing cabs in
15 upstate New York?

16 ACTING COMMISSIONER MANION: Part of
17 this is when you've got people -- when you've
18 got cars going from county to county and
19 jurisdiction to jurisdiction, how do you
20 figure out where the sales tax goes? So by
21 having one flat rate, that covers it all
22 across all of upstate. It's easier to
23 administer.

24 SENATOR KRUEGER: And is it shared

1 with the localities?

2 ACTING COMMISSIONER MANION: The
3 localities receive 27.7 percent of it to go
4 to a local transit fund.

5 SENATOR KRUEGER: Can you repeat the
6 second sentence?

7 ACTING COMMISSIONER MANION: The
8 localities receive 27.7 percent of what is
9 collected to go to a local transit fund.

10 SENATOR KRUEGER: And the 5.5 percent
11 would be collected per ride? I mean, how do
12 they report this to you?

13 ACTING COMMISSIONER MANION: Per ride,
14 yes.

15 SENATOR KRUEGER: But it's collected
16 from the app company per se, not the
17 individual drivers.

18 ACTING COMMISSIONER MANION: Correct.
19 Correct, not individual drivers.

20 SENATOR KRUEGER: And under the sales
21 tax system, it tends to be more of a close to
22 a 50/50 model between the state and the
23 counties.

24 ACTING COMMISSIONER MANION: Correct.

1 SENATOR KRUEGER: So how was it
2 concluded that this system, as opposed to the
3 other livery systems, should be only
4 27 percent to the counties versus closer to
5 the formula if it was a sales tax model?

6 ACTING COMMISSIONER MANION: I wasn't
7 involved in the discussion around that, so
8 I'm not sure.

9 SENATOR KRUEGER: And what's the
10 estimated revenue, annually?

11 ACTING COMMISSIONER MANION: Sixteen
12 million this year, and 32 million in
13 outyears.

14 SENATOR KRUEGER: And again, this
15 would not apply to the City of New York, just
16 everywhere else in the state?

17 ACTING COMMISSIONER MANION: Correct.

18 SENATOR KRUEGER: Okay. The
19 Governor's plan proposes expanding the law we
20 already changed in 2007 to require that
21 corporations who file federally as S
22 corporations have to do their state taxes as
23 S corporations.

24 ACTING COMMISSIONER MANION: Correct.

1 SENATOR KRUEGER: And it only projects
2 \$5 million increased revenue for the state.
3 Is that annual, or is that just for the first
4 year?

5 ACTING COMMISSIONER MANION: That
6 would be annual.

7 SENATOR KRUEGER: Annual.

8 ACTING COMMISSIONER MANION: Yeah.

9 SENATOR KRUEGER: What do we think the
10 impact will be if companies decide to change
11 their structures and file under 9A to avoid
12 this?

13 ACTING COMMISSIONER MANION: I don't
14 have that information with me right now.

15 SENATOR KRUEGER: Do we have any
16 estimate of what the impact of this change
17 would be on New York City's business taxes?

18 ACTING COMMISSIONER MANION: I don't
19 have that split.

20 SENATOR KRUEGER: You don't have any
21 idea.

22 ACTING COMMISSIONER MANION: Yeah.

23 SENATOR KRUEGER: I would love you to
24 be able to get back to me on that.

1 ACTING COMMISSIONER MANION: Okay.

2 SENATOR KRUEGER: Thank you.

3 So in 2010, Congress passed
4 Dodd-Frank. It had significant impacts on
5 the banking industry and the financial
6 industry throughout the country. There's
7 discussion about ending Dodd-Frank in
8 Washington as we speak. Has your department
9 done any analysis of what the impacts would
10 be for us here as far as tax revenue or
11 having to shift potentially our entire
12 structure of how we do financial business
13 taxes?

14 ACTING COMMISSIONER MANION: Our
15 department is watching what's happening in
16 Washington. But as we all know, things are
17 changing down there all the time.

18 So we will continue to watch it. As
19 anything becomes more formalized and we could
20 do some type of analysis to determine the
21 impact, we will do that.

22 SENATOR KRUEGER: Did our tax revenue
23 go up or down when they applied Dodd-Frank,
24 when it was implemented?

1 ACTING COMMISSIONER MANION: There are
2 a lot of variables that go into it, so I
3 don't know if we could actually attribute any
4 change specifically to that. But I can get
5 back to you on it.

6 SENATOR KRUEGER: Thank you.

7 ACTING COMMISSIONER MANION: Thank
8 you.

9 CHAIRWOMAN YOUNG: Thank you.

10 CHAIRMAN FARRELL: Thank you.

11 That's it? Well, just a couple
12 myself.

13 The Executive Budget proposed a
14 variety of tax reforms, tax enforcement
15 actions as well as the extension of the
16 current millionaire's tax rate for an
17 additional three years. In the context of
18 the economy still experiencing moderate
19 growth and with increased uncertainty over
20 the course of federal policies, would you
21 comment on the state's tax structure's
22 ability to withstand any of the adverse
23 economic effects?

24 ACTING COMMISSIONER MANION: The items

1 that are in the budget are really modernizing
2 the law to recognize the changes, such as the
3 marketplace that we discussed. And also
4 closing loopholes to really make sure that
5 we're collecting the intent of the tax laws
6 that are on the books.

7 Our ability to adjust with the economy
8 really comes into play with watching what is
9 coming in and making adjustments such as
10 these. So with the marketplace, I think
11 we've all seen that sales tax collection has
12 been a little bit sluggish. That could be
13 because a number of these smaller businesses,
14 working through the marketplace, are not
15 collecting the sales tax. In fact, in our
16 initial audit activity, we've found that they
17 are not collecting the sales tax -- and in a
18 few instances, they are collecting the sales
19 tax but not sending it into the state.

20 So as we can improve the enforcement
21 along these lines, we'll be able to better
22 make sure that we're collecting the money
23 that's due under the existing laws, but also
24 be tracking it to adjust with the economy and

1 what's happening in Washington also.

2 CHAIRMAN FARRELL: Thank you very
3 much.

4 ACTING COMMISSIONER MANION: Thank
5 you.

6 CHAIRWOMAN YOUNG: Thank you for
7 coming in today.

8 ACTING COMMISSIONER MANION: Thank
9 you.

10 CHAIRMAN FARRELL: Edmund McMahon,
11 research director, Empire Center for Public
12 Policy.

13 MR. McMAHON: Good morning.

14 CHAIRWOMAN YOUNG: Good morning.

15 CHAIRMAN FARRELL: Good morning.

16 MR. McMAHON: Thank you, Assemblyman
17 Farrell, Senator Young, Assemblyman Oaks,
18 Senator Krueger, other committee members.
19 Thank you for this opportunity to testify
20 once again this year on the tax side of the
21 budget.

22 Over the past several years, you and
23 the Governor have done a number of things
24 that significantly improved our tax climate.

1 These include but are not limited to the cap
2 on local property tax levies, to the
3 corporate estate tax and corporate tax
4 reforms of 2014, and, last but not least, the
5 personal income tax, so-called middle-class
6 tax cut done last year.

7 Unfortunately, I think some of the
8 most notable tax and revenue proposals in the
9 fiscal '18 Executive Budget would move
10 New York in the wrong direction. For
11 example, it includes a three-year extension
12 of what amounts to the state's third largest
13 tax, which is the \$5.7 billion in dedicated
14 revenues collected through the Health Care
15 Reform Act.

16 Bill Hammond, the Empire Center's
17 health policy director, has recently issued a
18 report on this about how counterproductive
19 and inequitable the impacts of the HCRA
20 program can be. While this is not, strictly
21 speaking, a focus of this hearing, the
22 program's purpose and cost deserves a closer
23 look than it appears to be getting.

24 Another problematic feature of the

1 budget is a proposed extension, as has been
2 referred to here a few times, of the Film and
3 TV Production Credit, which is now scheduled
4 to expire in a couple more years. Since the
5 program's inception in 2004, the state has
6 awarded or allocated, going forward, roughly
7 \$4.5 billion in credits, which is far beyond
8 any program of its type in the country and
9 far larger than any similar tax subsidy on
10 the books here.

11 I would submit that it's time to bring
12 down the curtain for good on what amounts to
13 a gratuitous giveaway. You may view this as
14 you -- if you please, as a tax on wealthy
15 corporations and individuals.

16 But I'd like to devote most of my
17 testimony this morning to the Executive
18 Budget revenue proposal that's garnered the
19 most attention, which is of course the
20 proposed three-year extension of the
21 so-called millionaire tax. Without getting
22 into the details, with which you're familiar,
23 there are several reasons why I would suggest
24 that this proposal does not merit the

1 Legislature's full support.

2 First, assuming you join Governor
3 Cuomo in committing yourselves to restraining
4 spending growth to 2 percent a year, as you
5 have done for the past four or five years, it
6 appears from the financial plan that you
7 won't need the money. Based on the Executive
8 Budget financial structure, you could reduce
9 the tax below 8 percent in the first year and
10 a half or so that it's extended, and you
11 could eliminate it entirely before the end of
12 2020.

13 I've illustrated the numbers used to
14 come up with this estimate in Table 1 of the
15 appendix attached to my testimony.

16 Second, I would suggest that the
17 millionaire tax is anti-competitive. It's an
18 outlier compared to other states with income
19 taxes. And I've submitted some charts that
20 illustrate where we stand compared to other
21 states. The current is a hair below the
22 original version of the current millionaire
23 tax enacted in 2009, but it's higher than any
24 permanent PIT rate imposed by New York since

1 the historic bipartisan state income tax
2 reform this Legislature enacted in 1987. It
3 ranks 7th among all statewide income tax
4 rates in 2016. It's the second highest among
5 the 10 largest states that have an income
6 tax. And among the 43 states in all that
7 impose any individual income tax, the median
8 top rate was around 6 percent last year. So
9 it's higher than that rate also.

10 Of course, the personal income tax
11 isn't just "personal"; it's an integral part
12 of the business tax for many flow-through
13 businesses and partnerships. And on top of
14 the state income tax, New York City imposes a
15 rate of about 3.9 percent. It also imposes
16 an unincorporated business tax of 4 percent,
17 which is in effect a commuter tax. It
18 applies to resident and nonresident
19 participants in pass-through entities.

20 So in the city, the rate is at least
21 the second highest in the country after
22 California's, and far above those of other
23 jurisdictions.

24 Third, the extension of the

1 millionaire tax has compounded our reliance
2 on what the Assembly Majority Ways and Means
3 staff a few years ago noted is an inherently
4 unstable, volatile and unsustainable revenue
5 source. We now depend on the income tax for
6 roughly two-thirds of our total state tax
7 revenues, and roughly 40 to 41 percent of the
8 income taxes being collected from the
9 highest-earning 1 percent of taxpayers. That
10 makes us vulnerable to swings in their
11 incomes and in economic conditions that
12 affect their incomes.

13 I would point out that during the
14 Great Recession, much of -- or most of the
15 problem you encountered in terms of the
16 fiscal crisis was due to a 40 percent drop in
17 the incomes of the highest-earning 1 percent
18 over a two-year period. And that, in turn,
19 was due largely to a 75 percent drop in
20 capital gains, which is a very large and
21 outsized component of incomes among your
22 highest-earning taxpayers. That had happened
23 before, a few years earlier, when there was a
24 66 percent drop in capital gains.

1 And again, I have attached a --
2 Figure 4 in my appendix shows you the roller
3 coaster ride, as it's called, of net capital
4 gains in our income base over the last
5 15 years. The more you rely on an added
6 surtax on high incomes, the more you are
7 susceptible to sickening falls in that
8 revenue source.

9 Fourth, there is a question of how the
10 millionaire tax is affecting the tax base at
11 the top of the income distribution. While
12 it's impossible to establish any clear causal
13 link here, the repeated imposition of the
14 millionaire tax, starting with a lower surtax
15 rate in the state and city between '03 and
16 '05, starting again with the imposition of
17 the millionaire tax in '09, has coincided
18 with marked growth in the portion of
19 high-income taxpayers who are classified as
20 full-year nonresidents of New York.

21 Nonresidents are taxed only on their
22 New York source income -- mainly, salaries
23 and profit shares from New York businesses --
24 not on their capital gains, dividends and

1 interest, which make up the bulk of their
2 personal income.

3 Now, we're familiar with nonresidents
4 such as commuters from New Jersey and
5 Connecticut who form a large part of the
6 workforce in New York City, who commute into
7 New York City and who are taxed on the bulk
8 of their incomes which come from salaries by
9 New York, and credited for it in their state
10 of residence.

11 However, at income levels below
12 \$100,000, those commuters make up less than
13 10 percent of all taxpayers. The higher you
14 go on the income scale, the larger the
15 proportion of taxpayers who are nonresidents.
16 In fact, the percentage of nonresidents
17 increases sharply, and the allocation
18 percentage to New York drops, the higher you
19 go on the income scale.

20 Nonresidents now make up nearly half
21 of all New York taxpayers with incomes above
22 \$1 million. Nearly 60 percent in the
23 super-high income category above \$10 million
24 are nonresidents in our tax base. Both these

1 figures are the highest on record, as best as
2 I can tell, looking at state tax data.
3 Between '09 and '14, the number of resident
4 filers earning \$1 million or more increased
5 60 percent -- but the number of nonresident
6 filers increased 79 percent.

7 If you look solely at the income of
8 residents versus non residents, the
9 difference was even greater. The AGI of
10 residents grew 76 percent in this \$1 million
11 and above category; the AGI of nonresidents
12 grew 124 percent.

13 Many if not most of the taxpayers in
14 these rarified brackets are members of what
15 you might think of as "the 183 Club" -- that
16 is, people who carefully arrange their
17 affairs to establish a residency in another
18 state and monitor their presence in New York
19 to ensure they are not here for more than
20 183 days a year. Indeed, there's a whole
21 cottage industry of lawyers, accountants, and
22 software developers who cater to high-income
23 taxpayers who want to make sure they minimize
24 their exposure to New York taxes, both in

1 New York City and in New York State.

2 While nonresidents make up roughly
3 half of the 45,000 households the Governor
4 has estimated are subject to the millionaire
5 tax, they do not generate a similar
6 proportion of the nearly \$4 billion raised
7 from the tax. Their actual share probably
8 ranges between 10 and 15 percent -- there
9 isn't a published number -- depending on
10 income class, because, on average, that's the
11 percentage of income they allocate to
12 New York.

13 Even small shifts of millionaire
14 earners can have outsized effects on our
15 revenues. For example, at an average 2014
16 federal AGI level of \$5.4 million, if just
17 10 percent of the 43,343 nonresident
18 taxpayers New York had in 2014 shifted their
19 main residence to the Empire State, we'd gain
20 \$1.6 billion in revenue with a tax rate of
21 6.85 percent.

22 Last but not least, the extension of
23 the millionaire tax needs to be considered in
24 light of the impending federal tax reform.

1 This gets, in part, to the question
2 Assemblyman Farrell asked about our tax
3 code's vulnerability to changing economic
4 conditions and forces beyond our control.

5 Both President Trump and congressional
6 Republicans have embraced tax reform plans
7 that would effectively eliminate the state
8 and local tax deduction for households
9 affected by our millionaire tax. Even
10 assuming the federal marginal rate drops by
11 nearly as much as Republicans in Washington
12 have proposed, eliminating deductibility at
13 the margin would significantly raise
14 New York's net tax price relative to states
15 with low or no income tax, such as Florida.

16 This is not just a Republican
17 priority, by the way. President Obama, in
18 almost all of his budgets, proposed
19 curtailing deductibility. Hillary Clinton
20 proposed such a change. President Obama and
21 former Speaker Boehner agreed to do it before
22 it was blocked by the Senate in 2012.

23 For state government, in conclusion,
24 downstate New York's concentration of wealthy

1 Wall Street investors, elite professionals,
2 and corporate executives is like the goose
3 that laid the golden eggs in Aesop's Fable.
4 The moral of the fable, of course, was don't
5 kill the goose. A corollary would be don't
6 expect to collect more gold eggs by squeezing
7 the goose harder, either. Or, as the
8 Governor himself was quoted as telling the
9 Daily News yesterday: "People will take a
10 certain amount of abuse and then there is a
11 point. The question is, what is that point?
12 Nobody knows for sure, but you don't want to
13 reach that point."

14 I think those are words to live by,
15 for the Governor and for you, in considering
16 what to do about this tax.

17 In conclusion, I'd be happy to answer
18 any questions in the time left. I did listen
19 to most of Commissioner Manion's testimony,
20 before and after the disruption, and I found
21 it interesting and would be happy to share
22 any insights on that as well.

23 Thank you very much.

24 CHAIRMAN FARRELL: Thank you.

1 Questions? Mr. Oaks.

2 ASSEMBLYMAN OAKS: The issue that the
3 state has to deal with, I think, is that
4 we -- if we extend the tax or increase it, as
5 some would have us, we are already depending,
6 it's a percentage, to a greater extent on
7 high earners in New York State.

8 MR. McMAHON: This is a double-edged
9 sword. There's a couple of issues to think
10 of from the standpoint of legislators who
11 need to be concerned about a balanced budget
12 and a sustainable revenue base and about the
13 economy in general.

14 One issue is the volatility that comes
15 with increased dependence on high incomes.
16 As I pointed out, the chart of the capital
17 gains is really stunning. You have had, in
18 recent times, in recent memory, you've had
19 drops of 66 percent and 75 percent in capital
20 gains. Those are the principal income
21 sources of your highest-income payers.

22 So the more you rely -- and the total
23 incomes of the top 1 percent went down by at
24 least 1 percent during the recession. So

1 with each and every, say, billion dollars, to
2 round it off, that you raise from high-income
3 payers, you've got a \$400 million to \$700
4 million risk built into that, in terms of a
5 volatility risk. Just pointing that out.

6 Now, that by itself, in isolation, is
7 not an argument against the tax. It is an
8 argument for thinking that you can program
9 recurring spending on a smooth basis against
10 a tax like that.

11 But secondly, there's the
12 competitiveness issue and there's the
13 behavioral issue. No one can say for sure
14 what's going on. But there's clearly been a
15 migration, a paperwork migration, to
16 nonresident status among your highest-income
17 taxpayers. That's happening. We don't know
18 why it's happening. Why it suddenly began
19 happening at a fairly steady rate,
20 interrupted by the income drop
21 post-recession, is not something that the
22 data shout loudly about, but I think they
23 should give you pause.

24 If you erode your own tax base, I

1 think what you're looking at, in my opinion,
2 is leakage. And I think that you can erode
3 your own tax base by doubling down on this
4 rate.

5 And again, last but not least, all may
6 seem chaos, periodically, in Washington.
7 There is going to be a federal income tax
8 reform. There is -- they are absolutely
9 committed to doing it, Congress, on a fast
10 track. And the stars are aligned this time.
11 Compared to 1986, the stars are aligned much
12 more firmly in the direction of curtailing if
13 not eliminating the state and local
14 deduction. In '86, you may recall, there was
15 significantly more bipartisan balance in the
16 congressional delegations from New York,
17 California, New Jersey, Illinois,
18 Connecticut -- the states most affected by
19 this, disproportionately. Between us and
20 California alone, our tax bases account for
21 half of what will be affected by this.

22 And I really would be very aware of
23 that. The incoming Treasury Secretary, when
24 asked about the rate reduction proposed in

1 Trump's last campaign plan, said that in
2 light of the fact that -- of the deficit
3 issues that the plan raised, said that the
4 rate cuts at the top in particular would be
5 paid for by closing loopholes and exemptions.

6 Now, one of the largest of those,
7 because everybody wants to protect the
8 charitable deduction, is the state and local
9 tax deduction. Never in history has New York
10 gotten away with imposing taxes at outlier
11 rates without having them almost fully
12 deductible, with some wrinkles in terms of
13 federal rules, including the so-called Pease
14 rule.

15 But I would point out, if you look at
16 the post-deductibility tax price of New York,
17 throughout history, going back to when our
18 marginal rate was over 15 percent, just on
19 the state level, it actually has tended to
20 waver in a band between 4.5 and 6 percent,
21 effectively, because of the interplay with
22 federal rates. If they get rid of
23 deductibility, you're right up at 8.82.

24 And while the federal rate may go

1 down -- perhaps not as much as Speaker Ryan
2 and the President had supported in the
3 campaign, but to some extent -- a great part
4 of the tax reduction, from the point of view
5 of the people getting that tax reduction, may
6 be not by state and local taxes if the
7 deduction is eliminated.

8 Now, you can dislike that policy, you
9 can have questions and qualms about the
10 direction federal tax reform is going, but
11 that should give you pause in terms of the
12 reliability of a high income tax surcharge.

13 And many of the arguments, some of
14 them more disruptively made in this room
15 several times today, and among other parties
16 in favor of, quote, unquote, taxing the rich,
17 who I would note we already tax, tend to be
18 arguments that are really ultimately about
19 federal tax policy. Because you're one
20 jurisdiction, New York is an island among
21 many jurisdictions. There's obviously a
22 great deal of tolerance among a certain
23 critical mass of taxpayers in New York for
24 high rates, but that tolerance isn't

1 infinite, I would argue. And clearly there's
2 been erosion of the tax base, I think.
3 Certainly there's enough questions raised
4 about whether we're getting erosion and how
5 much faster it might occur.

6 ASSEMBLYMAN OAKS: Certainly I enjoy
7 having the further conversation. The
8 nonresident issue, certainly when they don't
9 have earned income, then we won't get their
10 income because they won't be our residents.

11 MR. McMAHON: And most of their income
12 tends to be what we used to call, quote,
13 unquote, unearned, meaning just from
14 investment and passive investment income.

15 ASSEMBLYMAN OAKS: Thank you.

16 CHAIRMAN FARRELL: Thank you.
17 Senator.

18 CHAIRWOMAN YOUNG: Thank you.
19 Senator Savino.

20 SENATOR SAVINO: Thank you, Senator
21 Young.

22 Thank you, E.J. Hopefully you won't
23 be interrupted through this part -- through
24 our questioning. It's odd, because it would

1 seem that you and the group of people that
2 just marched through here are at
3 cross-purposes with one another. You have
4 completely divergent opinions on tax policy
5 in the state, not surprisingly.

6 But what would you -- I mean,
7 obviously we as a state have taken on the
8 responsibility of providing for many of the
9 needs that that group were advocating for,
10 whether it's education or healthcare or
11 housing. And, you know, they obviously feel
12 the pain of the state's shortcomings in a
13 very profound and real way. And we've only
14 been able to achieve what we've done, albeit
15 they may disagree whether or not we've done a
16 good enough job at it, because of the revenue
17 that we derive, and some of it is the
18 high-earner tax.

19 If we were to allow it to expire, how
20 would we satisfy the needs of the millions of
21 people that don't -- you know, will never be
22 able to be part of the 183 Club? As a state,
23 how would we continue to make sure that
24 people aren't sleeping in the street or where

1 we can provide a decent education? I mean,
2 and you're a smart guy, and I know you have
3 thought this through, and I'm not being
4 facetious, I'm actually curious. Like what
5 are your ideas on how we would be able to do
6 some of these things?

7 MR. McMAHON: Well, thank you. I
8 would say part of it had to do with my point
9 about whether you need it, quote, unquote,
10 under the Governor's own financial plan. And
11 really the question becomes can you meet the
12 most pressing needs of New Yorkers in every
13 region and in every situation that government
14 feels it must respond to, under the cap, the
15 2 percent spending cap in the budget?

16 I would point out that right now,
17 taxes as a percent of GDP in New York State
18 are higher than they were in 2011, 2010.
19 Slightly, but they're higher. I mean, you've
20 actually net raised taxes. And that, by the
21 way, was 2010. You had a higher millionaire
22 tax then.

23 How much is enough, is the question.
24 There was -- for instance, a lot of the

1 shouting about this tax, figurative and
2 literal, is about school aid. I don't need
3 to remind you, probably, that we spend
4 89 percent more than the federal per-pupil
5 average on school aid -- considerably more
6 than any state, including some fairly
7 high-cost-of-living Northeastern states that,
8 by some measures, have better educational
9 results than we do, with equally diverse
10 educational systems.

11 So the question is, can we spend more
12 effectively and can we meet our needs by
13 rearranging priorities within the budget.
14 And one example I gave you was -- which is
15 why I was not being totally facetious about
16 the Film and TV Production Credit. You're
17 handing \$445 million a year to wealthy
18 Hollywood production companies, actors,
19 producers and directors, in effect, directly
20 and indirectly, to exploit the comparative
21 advantage that New York already has, in
22 spades, for producing motion pictures and TV
23 shows. That's highly questionable, to say
24 the least, I would suggest.

1 You had a discussion earlier about
2 STAR credits. Now, part of that had to do
3 with the shift of STAR to a credit; part of
4 it, I think, had to do with the conversion of
5 the so-called property tax freeze credit into
6 a STAR rebate. And I would suggest that the
7 problems you're having with the Tax
8 Department are inherent in that design.
9 That's a really bad example of tax policy.

10 Now, last year you did the right
11 thing, you approved a middle-class tax cut,
12 which basically said, you know what, we're
13 going to cut your taxes by cutting your
14 taxes, rather than cutting you a check.

15 Having done that, why continue to
16 spend, even on a program that at least now is
17 temporary, I think three-quarters of a
18 billion to a billion dollars a year, on a
19 muddled-up program of putting checks in
20 mailboxes at some point in the year? That is
21 causing you nothing but headaches because, in
22 fact, it's inherently flawed.

23 SENATOR SAVINO: Because it's a visual
24 reminder.

1 MR. McMAHON: Well, but I would say
2 that in my own experience as just another
3 suburban guy, and anecdotally, most people
4 get the check for \$71.63 and say, What is
5 this? Didn't we get our refund earlier this
6 year?

7 It's like you buy a dryer and six
8 months later, you know, ACS Consumer Services
9 sends you a check for \$150 and you say, What
10 is this? Is this like one of those come-ons?
11 And you forgot there was a rebate attached to
12 the dryer you bought.

13 I mean, it actually disattaches the
14 tax -- the check is disattached from anything
15 having to do with the tax. You've capped
16 property taxes. You still need to do, in my
17 view, mandate relief, as we're getting on
18 programmatically. But you've capped property
19 taxes, you're now cutting the personal income
20 tax, and yet what you're hearing the most
21 from your constituents, which I do not doubt
22 for a minute, is "Where is this check I keep
23 hearing about?" Which is -- it's just
24 confusion.

1 And again, that's a waste of money.
2 So when you ask about, coming back to your
3 question, how do we fund the real needs we
4 have -- and there are real needs. Nobody
5 argues that. Well, one might argue, you
6 know, that the priorities are misplaced and
7 that we're basically blowing a lot of money
8 on things that don't make that much
9 difference and don't help many people.

10 SENATOR SAVINO: Fair enough. Thank
11 you. My time is up.

12 MR. McMAHON: You're welcome.

13 CHAIRMAN FARRELL: Thank you.
14 Senator?

15 CHAIRWOMAN YOUNG: Senator Krueger.

16 SENATOR KRUEGER: Thank you, E.J.

17 So the protestors raised a number of
18 issues, and one was the carried interest
19 loophole, which is federal, not state.

20 MR. McMAHON: Right. Right.

21 SENATOR KRUEGER: What's your position
22 on closing the carried interest loophole?

23 MR. McMAHON: I don't find myself
24 getting all worked up at the thought of the

1 federal government changing the treatment of
2 carried interest.

3 As you know, what that amounts to,
4 it's -- principally, it is a form of fee, if
5 you will, or a form of compensation taken --
6 it's mainly private equity firms, as opposed
7 to hedge funds, although it's most frequently
8 identified with hedge funds. And it's
9 treated on the federal level as capital
10 gains. So if you're a partner in a hedge
11 fund, part of your payment, if you will, for
12 arranging the refinancing or acquisition or
13 restructuring of a company comes in the form
14 of a capital gain, which is called, quote,
15 unquote, carried interest.

16 There are other types of businesses,
17 nonfinance, that have carried interest. And
18 one of the problems with carried interest, I
19 would observe -- and people a lot smarter
20 than me about tax codes have observed this --
21 it's kind of like one of those cases where
22 you go to the doctor and the doctor says: I
23 have good news, the tumor is benign, but it's
24 got all these little nerve endings attached

1 to it. So it's going to be a very delicate
2 process.

3 Carried interest actually connects to
4 a lot of industries that you don't think of
5 that are other than finance, which is the
6 reason that Senator Schumer, our own senior
7 senator, in the past has brought talk of
8 repealing it to a standstill by saying,
9 "Okay, let's repeal all carried-interest
10 capital gains treatment." Which brings an
11 immediate change of subject to the discussion
12 in Washington, because there's other
13 industries affected by it.

14 But if they change it, only for
15 finance, it would be really interesting to
16 see what Congress is -- among other things,
17 it will be a very telling indication of who
18 in Congress cares about Connecticut.
19 Because it would be a tremendous windfall for
20 New York State of some level -- hundreds of
21 millions of dollars at the very least -- that
22 we would begin taxing that Connecticut would
23 be left in the position of double-taxing.
24 Because right now, the main thing with

1 carried interest is carried interest for
2 federal purposes is a capital gains income.
3 We tax all income at the same rate. But we
4 don't tax the capital gains of nonresidents.
5 If it becomes treated as a business
6 partnership related income or some sort -- an
7 earned income category in New York, then we
8 gain the tax and Connecticut has a choice
9 between dropping the tax or double-taxing
10 people.

11 One thing no one will sit still for,
12 at any income level, is being double-taxed.
13 So that would -- I think that something
14 different would ultimately happen. But what
15 it would be, I don't know.

16 SENATOR KRUEGER: So we know your
17 position on the millionaire tax or the higher
18 rates for the wealthiest, but you also said
19 it, the federal government is going to change
20 tax policy dramatically, and they're going to
21 end up starving us. They may take away
22 state/local deductibility, which will have,
23 as you point out correctly, an enormous
24 impact on New York taxpayers. But the

1 federal government is going to starve New
2 York.

3 We have to make sure the services are
4 provided. So what should we be doing with
5 our tax code to make sure we can provide the
6 services we need, as we will see less money
7 coming from the federal government, some real
8 winners and losers in the changes the feds do
9 to our tax policy, and our need to adapt and
10 adjust and be the state that actually
11 provides the services?

12 MR. McMAHON: A couple of things in
13 response to that. I think the risk from the
14 tax reform is more pointed and measurable in
15 the immediate future than the amorphous
16 threat of what is done to Medicaid and the
17 Affordable Care Act and what impact that has
18 on that. That's very complex. We're already
19 seeing signs of a hesitation and a reset in
20 terms of the way Congress is approaching
21 that.

22 SENATOR KRUEGER: Then let's stick
23 with taxes now.

24 MR. McMAHON: But taxes, I would say

1 again, to get back to one of my first themes,
2 was you want to eliminate exceptions and
3 loopholes like the film production credit,
4 you want to eliminate things like the latest
5 version, whose name I can't even recall at
6 this point, of the property tax freeze
7 credit, family tax credit, whatever it is,
8 which is causing part of the agitation that
9 you had to ask Commissioner Manion about.

10 Those things are not providing --
11 you're well intentioned in the sense you're
12 trying to provide tax relief to people on
13 some sort of means-tested basis, but it just
14 is not an efficient use of what we're talking
15 about, between those two things, of billions
16 of dollars over the next few years. For
17 starters, you should not do those things.
18 You should bring them both to a halt and look
19 at other aspects of the tax code that involve
20 loopholes and exceptions and special targeted
21 credits, and have a tax code that's as
22 efficient and fair and broad and sustainable
23 as possible.

24 SENATOR KRUEGER: Thank you.

1 The Governor has proposed a new
2 version of 421-a.

3 MR. McMAHON: Right.

4 SENATOR KRUEGER: He doesn't call it
5 421-a, but it's 421-a. And that's been
6 scored by the city's Independent Budget
7 Office -- because again, it would be the
8 state acting, but taking the city tax
9 money -- that it would cost \$2.4 billion a
10 year and get the city about \$150 million of
11 affordable housing. Do you think that's a
12 good deal for the City of New York?

13 MR. McMAHON: No. No.

14 SENATOR KRUEGER: Good. Glad. Glad
15 to hear that.

16 MR. McMAHON: Absolutely not.

17 SENATOR KRUEGER: And you brought up
18 HCRA briefly, referenced Bill Hammond's
19 report.

20 MR. McMAHON: Yes.

21 SENATOR KRUEGER: Is he going to
22 testify at the healthcare hearing?

23 MR. McMAHON: I hate to be -- I think
24 he was. I believe he was. Don't hold me to

1 that. The last I heard, he was.

2 SENATOR KRUEGER: Because it is the --
3 I read the report, and it is the contention
4 that HCRA is actually a package of taxes,
5 even though it's specific to healthcare. And
6 I wanted us to cover it. But if he's coming
7 to the healthcare hearing --

8 MR. McMAHON: I believe he is.

9 SENATOR KRUEGER: -- and it's his
10 report, I'll wait and ask him.

11 MR. McMAHON: Okay.

12 SENATOR KRUEGER: Thank you very much.

13 MR. McMAHON: You're welcome.

14 CHAIRMAN FARRELL: Thank you.

15 CHAIRWOMAN YOUNG: Thank you, E.J.

16 MR. McMAHON: Thank you.

17 CHAIRMAN FARRELL: Business Council,
18 New York State, Ken Pokalsky, vice president.

19 VICE PRESIDENT POKALSKY: Thank you.

20 I can still say "good morning."

21 On behalf of the Business Council and
22 our membership, I appreciate the opportunity
23 to be here today --

24 CHAIRMAN FARRELL: Do me a favor and

1 pronounce your name? I want to see how bad I
2 was on that one.

3 VICE PRESIDENT POKALSKY: Pardon me?

4 CHAIRMAN FARRELL: Say your name.

5 VICE PRESIDENT POKALSKY: Ken
6 Pokalsky.

7 CHAIRMAN FARRELL: I wasn't far off.
8 All right, I'm getting better.

9 VICE PRESIDENT POKALSKY: So we
10 submitted pretty extensive, detailed comments
11 on a lot of provisions of the Executive
12 Budget. I'd like to just hit on a couple of
13 highlights in the five minutes we have for
14 our oral presentation today.

15 First and foremost, you know, the
16 Business Council puts out our legislative
17 agenda each year, we call it our Back to
18 Business Agenda. And it really focuses on
19 the economic reality you see when you look at
20 New York State's regional economies in
21 detail. The general perception is that
22 New York State is doing just great. If you
23 look at the general employment growth numbers
24 and unemployment numbers, that we compare

1 well to the nation overall and to many of our
2 sister states.

3 When we look at the regional
4 economies, though, you see a real, marked
5 uneven growth. Most of the private-sector
6 job growth, whether you look back one year or
7 five years or to prerecession peaks in 2008,
8 almost all that growth is in New York City.
9 If you look at what's happening in much of
10 upstate New York, it's either total flat
11 growth or negative growth. Many regions of
12 upstate New York have fewer private-sector
13 jobs now than they did in their pre-recession
14 peaks.

15 The point is New York State's economy
16 and policy still impose some significant
17 competitive challenges to the private sector.
18 And we think that's the context in which the
19 Legislature should be looking at major policy
20 documents, including the Executive Budget and
21 other issues that come before the state
22 legislature during the course of the year.

23 The one thing I wanted to talk about,
24 it's not taxes per se, but it's a

1 \$5 billion-plus state mandated cost on
2 employers, and that's workers' compensation.
3 In last year's budget we did see a modest
4 package of proposals for workers'
5 compensation reform that eventually were not
6 enacted.

7 One of our great disappointments in
8 this year's Executive Budget and the State of
9 the State, with the large number of
10 initiatives, there's really no discussion at
11 all of the need for workers' compensation
12 reform. It's a major cost. When we speak
13 with individual businesses, including
14 manufacturers, more often than not, they're
15 citing workers' comp as the single most
16 significant cost of doing -- state level --
17 cost of doing business factors that they're
18 facing.

19 We think there are both administrative
20 reforms and legislative reforms that need to
21 be addressed. Administratively, the Workers'
22 Comp Board can issue already completed
23 guidelines for assessing what are known as
24 scheduled loss of use injuries.

1 Legislatively, we think it's imperative that
2 the Legislature make the 2007 reforms dealing
3 with duration caps on permanent partial
4 disability benefits more clear, so that the
5 duration cap begins on the date of injury.

6 What we've seen is benefits that are
7 intended to run up to 10 years running 12,
8 14, 16 years because of uncertainty about
9 when the clock starts running on those caps.

10 And those are the major cost savings
11 that were part of the '07 reforms that saw
12 more than a doubling of benefits. So that's
13 a major focus for this year.

14 In my remaining time I'd like to touch
15 on a couple of tax policy recommendations
16 that we're putting on the table and reaching
17 out to fiscal staffs on that are not
18 addressed in Executive Budget.

19 First, small business income tax
20 reduction. Actually, in last year's
21 Executive Budget there were proposals for
22 small-business-focused income tax reductions
23 on both the corporate franchise and personal
24 income tax. That proposal was accepted in

1 the Assembly's budget resolution and accepted
2 with some modifications in the Senate budget
3 resolution. And even though you had
4 three-way support for it, it was really set
5 aside when the focus turned to restructuring
6 the middle-class tax rates.

7 We think it should be back on the
8 table. We thought last year's reform
9 structure made a lot of sense, although we
10 did propose a higher income threshold on both
11 the corporate and personal income tax side.

12 Article 9A. In 2014, we did a major
13 restructuring of the corporate franchise tax.
14 Through now two years of experience of living
15 with the statutory changes, we keep seeing --
16 we see the need for some technical amendments
17 addressing practical compliance and audit
18 issues that were really not anticipated when
19 the statute went through.

20 The one we're suggesting today deals
21 with how you source income to New York. The
22 statute says you're supposed to base this on
23 where services sold to a customer are used or
24 where the benefit is derived, something

1 that's almost impossible for a business to
2 know when you have hundreds if not thousands
3 of similarly situated customers around the
4 nation.

5 So what we're proposing is something
6 we've seen adopted in Massachusetts, endorsed
7 by the Multistate Tax Commission, is to
8 create a safe harbor allowing taxpayers to
9 use data; specifically, billing addresses,
10 because it's already in their files. It's an
11 issue that's being talked about with the
12 department in their rulemaking process but
13 has not yet been resolved.

14 The last thing I'll mention is R&D
15 credit. The Executive Budget did propose
16 what I'd say is a relatively modest tax
17 credit aimed at the life science industry.
18 That's actually being attached to the limited
19 tax credits available under the Excelsior
20 Jobs Program that was adopted a few years
21 ago.

22 We think the intent is correct. We
23 think the state should have a more robust R&D
24 investment credit than what we have today.

1 And what we would suggest is something that's
2 not limited to just life science but would
3 focus on any significant increase in R&D
4 expenditures by any business in New York
5 State. Like the Governor's proposal, we
6 would base it off of the IRC, the federal
7 Internal Revenue Code, tax credit.

8 You know, with all this focus on
9 economic growth, innovation economy, R&D,
10 investments as the lifeblood of future
11 growth, we think it would behoove the state
12 to be more aggressive in this field and adopt
13 a more robust and more broadly available R&D
14 credit.

15 We have some other initiatives that
16 we're going to be recommending to the
17 Legislature, and, as you see in our
18 testimony, commentary on a lot of the
19 individual tax changes proposed in the
20 Executive Budget.

21 I'd be happy to take any questions you
22 have on our other initiatives or
23 Executive Budget issues. Thank you.

24 CHAIRMAN FARRELL: Senator?

1 CHAIRWOMAN YOUNG: Senator Savino.

2 SENATOR SAVINO: Thank you.

3 Ken, always good to see you.

4 I want to focus on the piece on
5 workers' comp reform. You and I have talked
6 about this in the past many times. I, like
7 you, have several concerns about workers'
8 comp post the reforms that were done in 2007,
9 which were supposed to solve a whole host of
10 problems, and I would say you and I probably
11 both agree they have not solved many of them,
12 either in your interests or mine.

13 One of the concerns that we both
14 share, I think, though is this idea that any
15 excess funds that exist, I believe, should go
16 back to the ratepayers. But the Governor's
17 office or the Division of Budget seems to
18 think that it's a slush fund that they could
19 reclaim on an annual basis.

20 Do you believe that that is something
21 that we should continue, or should we -- in
22 an effort to reduce premiums, should we
23 return that money back to the ratepayers?

24 VICE PRESIDENT POKALSKY: Absolutely.

1 We do mention that in our testimony. It was
2 an issue we raised last year as well.

3 And last year's Executive Budget was
4 the first time we saw this, and it was due to
5 a change in statute on how carriers made
6 assessments and then how they were supposed
7 to be remitted to the state. It turned out
8 that the state had collected a significant
9 surplus of assessments -- these are all
10 assessments on providers of workers' comp
11 insurance.

12 Historically your bill, based on
13 anticipated premiums, was sort of a
14 fifth-quarter true-up and surplus monies are
15 credited against the future.

16 Last year I believe the budget
17 authorized up to \$400 million being swept
18 into the General Fund. Our understanding is
19 this year is just an extension of that,
20 taking what's left. And ironically, our
21 understanding is in part those monies are
22 being targeted to pay the workers' comp
23 premiums incurred by the state for state
24 workers.

1 So absolutely, at a time when, you
2 know, we're really focused on the overall
3 cost, we're seeing an almost 10 percent
4 increase in premiums that were approved for
5 2017, it is the absolute wrong thing to do to
6 be taking assessments by all accounts that
7 were overcharged and moving them to the
8 General Fund.

9 SENATOR SAVINO: I mean, I would say
10 that advocates for workers, the AFL-CIO, we
11 all agree that the reforms of 2007 have
12 achieved almost none of its intended goals
13 and that it is time for us to take another
14 look at workers' comp reform. The realities
15 are the premiums have gone up, the costs
16 continue -- but most importantly, injured
17 workers are waiting a disproportionate amount
18 of time for approval of their treatments,
19 which is leading them to extended periods of
20 time out of the workplace, which actually
21 creates a problem for their employer.

22 The whole purpose behind workers' comp
23 was to eliminate the -- or to prevent an
24 employee from suing their employer -- right?

1 So you can't sue your employer if you're
2 injured on the job. You're supposed to get
3 access to treatment quickly so that you can
4 get back to work as quickly as possible.
5 That's the purpose of workers' comp, right?
6 That's why we have it.

7 It's not working, though. So we have
8 employees waiting longer, we have doctors who
9 are waiting -- actually, we have doctors who
10 are leaving the system because the
11 reimbursement rates are so ridiculously low
12 and the paperwork is even more ridiculous for
13 them to complete to be compensated a
14 relatively small amount of money. So you
15 have less doctors participating in the
16 workers' comp system, you have employees
17 waiting longer, premiums are going up,
18 employers are not getting their employees
19 back to work faster, so none of it is
20 working.

21 So I would hope that you would join
22 myself and I know Senator Alcantara, who is
23 now chairing the Labor Committee. We're
24 going to be taking another good long look at

1 workers' comp in an effort to try and make
2 some sense out of it. Because if not, we may
3 as well just tear up the statute and go back
4 to allowing employees to sue their employers
5 if they're injured on the job, or just be
6 covered by their regular insurance, which
7 happens in some other places.

8 VICE PRESIDENT POKALSKY: Well, we'd
9 be happy to be part of that. I don't know
10 the data on delays in medical care --

11 SENATOR SAVINO: Oh, I can get it for
12 you. I have plenty of it.

13 VICE PRESIDENT POKALSKY: I would talk
14 to -- I'm sure Lev is aware of that.

15 One of the two things that the 2007
16 reforms certainly did, we've seen more than a
17 doubling in maximum benefits. I mean, that
18 was one of the major asks at the table of
19 worker representatives. So that's, you know,
20 clearly occurred; benefits are significantly
21 higher.

22 But second, through the adoption of
23 peer-reviewed medical treatment guidelines,
24 one of the focuses there was for there to be

1 a generally accepted agreement on what
2 treatments are efficacious and would be
3 approved without, you know, additional
4 review.

5 I don't know if the delays are based
6 on so-called waiver requests for different
7 treatment modalities, but I would be happy to
8 take a look at that. I just don't know the
9 data off the top of my head.

10 SENATOR SAVINO: More than happy to
11 have that conversation. Thanks.

12 CHAIRWOMAN YOUNG: Thank you.

13 Anybody else?

14 I just want to say thank you to the
15 Business Council and you, Ken, for everything
16 that you do as far as job creation and, you
17 know, making sure that we have a
18 business-friendly environment and working
19 with the Legislature. So I just want to say
20 thank you.

21 VICE PRESIDENT POKALSKY: I appreciate
22 that. We welcome your support in those
23 efforts. Thank you.

24 CHAIRWOMAN YOUNG: Thank you.

1 ASSEMBLYMAN OAKS: Thank you.

2 CHAIRMAN FARRELL: Thank you.

3 Fiscal Policy Institute, Ron Douche
4 {sic}, executive director.

5 SENATOR KRUEGER: Deutsch.

6 CHAIRMAN FARRELL: Deutsch. I'm
7 getting close again.

8 EXECUTIVE DIRECTOR DEUTSCH: However
9 you want to pronounce it is fine.

10 (Laughter; overtalk.)

11 CHAIRMAN FARRELL: I just have to be
12 careful. Showoff.

13 (Laughter.)

14 EXECUTIVE DIRECTOR DEUTSCH: All
15 right. Well, thank you very much,
16 Assemblyman, and Senators. Appreciate the
17 opportunity to speak here today once again.

18 You have my lengthy testimony, so I
19 won't bother reading it to you. You can look
20 at it at your leisure. But I certainly want
21 to discuss one of my favorite topics, which
22 would be the millionaire's tax, and
23 potentially refute some of what's been said
24 already regarding that tax.

1 But I like to think of it as the Swiss
2 Army knife, kind of our fiscal Swiss Army
3 knife in our budget. It's there, it will
4 help us respond to priorities and needs, many
5 of which maybe haven't even arisen yet. But
6 we certainly have enough need in New York
7 State that we can use some of this money to
8 help fill some of those gaps.

9 We have the greatest income inequality
10 of any state in the nation right now. And if
11 you look at the chart on page 10, you'll
12 realize that the share of income going to the
13 top 1 percent has been growing quite
14 substantially over the last couple of
15 decades.

16 So in 2015, in New York City, the top
17 1 percent get about 40.9 percent of the
18 income. So if you're wondering why they're
19 paying a lot in terms of income taxes in
20 terms of the overall amount, well, that's
21 obviously why; they get the majority of the
22 income. So we should keep that in mind as
23 well.

24 And on the next page there's a chart

1 that clearly shows that income inequality
2 didn't always used to be this way. It wasn't
3 always this bad in New York. And in reality,
4 when we had higher taxes on the wealthy and
5 we invested in our citizens more, then we saw
6 a sharp reversal of income inequality. But
7 since 1980 when we started cutting taxes for
8 the wealthy, both at the federal and state
9 levels, we saw income inequality grow.

10 So the next chart on page 10 clearly
11 reflects the fact that even with the
12 millionaire's tax, the wealthiest 1 percent
13 in New York, those who are impacted by this
14 tax, pay a smaller share of their income in
15 state and local taxes.

16 So overall, while we may have a fairly
17 progressive income tax structure, our overall
18 state and local tax structure is fairly
19 regressive. So a higher millionaire's tax
20 would address some of those issues.

21 So I guess I would suggest a number of
22 things. One is -- you know, there are three
23 options, really, on the table. Right? It's
24 expiration, extension, or expansion. I

1 can -- you know, I can let you guess as to
2 where I stand, but I'll tell you, we want to
3 see expansion of the millionaire's tax.

4 We agree with the Assembly's proposal.
5 We think it's smart, we think it's the right
6 proposal at the right time.

7 We also have our own 1 percent plan.
8 Our plan differs a little bit in that we
9 start our first bracket at \$665,000, around
10 where the top 1 percent kicks in in New York
11 State. We ask those who are earning \$665,000
12 to \$1 million to pay 7.65 percent; those
13 \$1 million to \$2 million, 8.82 percent, which
14 is the current top rate at \$2 million and
15 above; and then we have additional rates
16 between \$2 million and \$10 million,
17 \$10 million and \$100 million, and above
18 \$100 million.

19 Now, I can assure you that should I
20 make more than \$100 million a year, I'd be
21 glad to pay that 9.9 percent tax under our
22 plan. But this notion that somehow
23 millionaires, you know, will flee New York
24 and will leave in droves I think is absurd.

1 And I think at the end of page 10 you'll see
2 and you'll note that actually the number of
3 millionaires since the millionaire's tax has
4 been in place has grown by 33 percent.

5 So between 2010 and 2014, we've seen a
6 33 percent increase in the number of
7 millionaire tax returns. So obviously the
8 millionaire's tax is not causing millionaires
9 to flee or the number of millionaires to
10 shrink -- quite the opposite.

11 We actually had a letter from
12 50 millionaires last year in support of
13 expanding the millionaire's tax. They
14 realize it's not affecting their quality of
15 life, it's not causing them to move. And
16 quite frankly, they want to help. They want
17 to help address child poverty, they want to
18 help address education outcomes. So I would
19 suggest that there is certainly room for
20 expansion here.

21 Also I'd like to point out that, you
22 know, who's impacted by this? Obviously the
23 Senate majority has been in favor of letting
24 the tax expire. Well, only 3 percent of the

1 millionaires in New York State that would be
2 impacted by this are in upstate New York.
3 Ninety-seven percent are in New York City,
4 Long Island, Westchester, Rockland and Orange
5 County.

6 So I guess I would say that this is
7 not a plan that, you know, has any negative
8 impact on upstate. Quite the opposite is
9 true, actually, since a lot of this money
10 would likely flow to upstate regions for
11 education and other programs.

12 So our plan would raise about
13 \$6.2 billion. The Assembly plan raises about
14 \$5.6 billion. We heard a lot about the fact
15 that nonresidents pay this as well, and
16 that's true. About 50 percent of the filers
17 are nonresidents, but they make up about
18 17 percent of the total yield generated from
19 the millionaire's tax. So while they make up
20 half the filers, it's 17 percent of the
21 total. So keep that in mind as well.

22 So, you know, I think there's plenty
23 of room right now to expand the millionaire's
24 tax. And my friend E.J. continues to kind of

1 cherry-pick what's happening at the federal
2 level, right? He talked about the fact that
3 if we remove state and local tax
4 deductibility, that would be a hit to that
5 same population. We estimated that to be
6 somewhere in the neighborhood of \$8 billion.

7 But when you look at the tax plans
8 that have been proposed so far -- certainly
9 by President Trump -- looking at the Tax
10 Foundation and Tax Policy Center estimates,
11 we realize that the top 1 percent of
12 New Yorkers would see about a \$20 billion
13 windfall if tax rates go down to where the
14 president is suggesting they go down to, from
15 39 to 25 percent.

16 So, you know, this notion that somehow
17 the wealthy can't handle a \$3.7 billion tax
18 that they're paying right now -- which is
19 exactly what we would lose if we allow the
20 millionaire's tax to expire, which I think
21 would be quite a shame. I don't think that
22 this population, given the explosion in the
23 number of millionaires since the tax has been
24 in place and the level of income that these

1 folks have, that this would be a good time to
2 basically provide a \$3.7 billion tax cut to
3 the wealthiest New Yorkers.

4 So I'm out of time, and I'm sure you
5 have a ton of questions.

6 CHAIRMAN FARRELL: Questions? Give
7 him some funds.

8 SENATOR KRUEGER: Okay, thank you.
9 Thank you, Ron. I appreciate you responding
10 to E.J.'s analysis.

11 So if I just heard you right, if the
12 Trump-Ryan tax proposals go through, while we
13 could really potentially lose the
14 deductibility for state and local taxes, the
15 tax reduction to the wealthiest New Yorkers
16 would be dramatically more than the loss in
17 state and local --

18 EXECUTIVE DIRECTOR DEUTSCH: Right.
19 We estimate a net of about \$12 billion in
20 terms of a tax windfall to the 1 percent.

21 SENATOR KRUEGER: But they're also
22 slightly different universes, am I correct?
23 So you can look at the proposed federal tax
24 reduction on the 1 percent and say for them,

1 the loss of deductibility is still just, you
2 know, a piece of what they're gaining, right,
3 with the federal tax cuts.

4 EXECUTIVE DIRECTOR DEUTSCH: Right.
5 For you and I, that might be a different
6 scenario.

7 SENATOR KRUEGER: But every -- I mean,
8 there's a lot of people who do their taxes
9 with deductibility --

10 EXECUTIVE DIRECTOR DEUTSCH: Right.
11 Anybody who itemizes, generally.

12 SENATOR KRUEGER: So have you done any
13 analysis on what the impact would be on other
14 taxpayers who we might not want to harm?

15 EXECUTIVE DIRECTOR DEUTSCH: We have
16 not done that analysis. We should probably
17 look at that as well. But I thought that
18 given the topic of the day in terms of taxes,
19 that we should probably be looking at right
20 now the top 1 percent, what the impact would
21 be on them.

22 SENATOR KRUEGER: No, I appreciate
23 that. And I guess I am -- I've been asking,
24 in any number of settings, what New York

1 State is doing to analyze and plan for the
2 endless impacts of proposed federal changes
3 under this administration, trying to get our
4 arms around -- you might have heard me
5 earlier -- what if Dodd-Frank goes away, what
6 is the impact.

7 EXECUTIVE DIRECTOR DEUTSCH: Right.
8 Right. Meaning a third of our budget is
9 federal dollars.

10 SENATOR KRUEGER: Even though this is
11 not the Health budget, if they do away with
12 ACA and they radically change Medicaid,
13 what's the impact on the health budgets,
14 et cetera, et cetera, et cetera.

15 But I do think the -- since almost
16 everyone thinks we're at risk of losing
17 deductibility, it would be valuable to have
18 the small number of tax policy advocates in
19 New York State help us understand exactly,
20 you know, the winners and losers in the
21 federal story. Because I do think that could
22 and even should impact how we evaluate what
23 we do with New York State tax policy going
24 forward.

1 EXECUTIVE DIRECTOR DEUTSCH: Right.

2 SENATOR KRUEGER: So I look forward to
3 seeing that.

4 And on the other comment you made
5 about the out-of-state residents and the
6 chart that was in E.J.'s report, do you have
7 any -- I agree the numbers show that people
8 aren't fleeing when we raised the tax rate on
9 the highest-income earners. And for the
10 record, my district probably has more of them
11 than anyone, and I'm on record as supporting
12 the continuation and expansion.

13 But is there any analysis of, even
14 though it's only 17 percent of the
15 higher-earner revenue, a projection of -- is
16 E.J. right, we would see more people becoming
17 nonresidents or even some percentage of those
18 nonresidents simply ending their New York
19 address?

20 EXECUTIVE DIRECTOR DEUTSCH: Yeah, you
21 know, I think those nonresidents are making
22 their millions. And let's keep in mind,
23 right, that this surcharge or this
24 millionaire's tax only applies to families

1 with incomes over \$2 million. So these
2 nonresidents are making tons of money in New
3 York, which is why they're paying this tax.
4 I don't think they're going to go to Wyoming
5 or North Dakota and make that kind of money.

6 So I guess I would suggest that this
7 is where the money is made -- right? I mean,
8 the majority of those folks are in the
9 financial sector or real estate sector, and
10 they're making their millions there. So I
11 don't foresee that changing any time soon.

12 SENATOR KRUEGER: Thank you.

13 EXECUTIVE DIRECTOR DEUTSCH: I don't
14 think they'll forgo their millions just
15 because they're angry about paying a little
16 in taxes to New York State.

17 SENATOR KRUEGER: Thank you.

18 Assembly?

19 CHAIRMAN FARRELL: Questions?

20 Thank you very much.

21 EXECUTIVE DIRECTOR DEUTSCH: My
22 pleasure.

23 CHAIRMAN FARRELL: Michael Kink,
24 executive director, Strong Economy for All

1 Coalition.

2 EXECUTIVE DIRECTOR KINK: Thank you,
3 Chairman Farrell, Senators Krueger and
4 Savino, Mr. Oaks, Mr. McDonald.

5 I'll also rely on my written testimony
6 for details and try to hit three specific
7 points in my oral testimony.

8 First, on the millionaire's tax, I
9 agree with Ron and I agree with Speaker
10 Heastie that New York should extend and
11 expand the millionaire's tax. The brackets
12 that the Assembly proposes in the plan that
13 Speaker Heastie recently announced actually
14 are the exact brackets that I came here last
15 year and recommended to the Legislature.
16 They reflect the explosive growth in income
17 in the high end of the spectrum that New York
18 has seen. Our tax brackets at some level are
19 kind of stuck in the '70s and '80s and don't
20 reflect the dramatic increase in incomes in
21 the multimillionaire and billionaire class.

22 I also agree with Ron and disagree
23 with E.J.; I don't think the millionaires
24 will move. The facts show that after our

1 millionaire's tax in 2009 and 2011, we grew
2 millionaires each time. And there is a
3 specific study of ultra-high-net-worth
4 individuals -- millionaires,
5 multimillionaires, and billionaires -- that I
6 refer to in my testimony that's done by
7 Knight Frank, the global real estate analysis
8 firm. They project New York not only to
9 continue as having the largest number of
10 ultra-high-net-worth individuals, but to grow
11 substantially between now and 2025, with
12 substantial increases in the tech and
13 information sectors, actually, outpacing the
14 growth in high-net-worth individuals in
15 Wall Street.

16 So when we think of New York, we think
17 about Wall Street, we think about the
18 financial industry, but there are new
19 fortunes being minted in Silicon Alley, tech,
20 advertising, creative content. We have a lot
21 of multimillionaires and billionaires. They
22 can afford to pay to live in the state where
23 they're making fortunes every day.

24 The second issue I wanted to address

1 was the state-level carried interest bill
2 that was introduced last year by Senator
3 Klein, on the Senate side, and Assemblyman
4 Aubry and a host of cosponsors on the
5 Assembly side.

6 The carried interest loophole is a
7 federal-level loophole, but we now have
8 legislation in many states to impose a
9 19 percent surtax on carried interest profits
10 at the state level, until and unless the
11 Congress takes action.

12 The bill, as was introduced by
13 Senator Klein and Mr. Aubry last year,
14 includes a regional compact so that we avoid
15 the problem that E.J. mentioned in his
16 testimony of hedge funds dashing across the
17 state lines to avoid taxes.

18 This same bill is now introduced in
19 New Jersey, New York, Connecticut, and
20 Massachusetts, and will be introduced in
21 Rhode Island in the first week of March.
22 It's also been introduced in Illinois, it
23 will be introduced in California, and will be
24 introduced in Minnesota. So this is the

1 states taking action when the federal
2 government is not taking action.

3 Although Donald Trump promised on the
4 stump that he was going to close this
5 loophole, it's clear from recent reporting
6 that the hedge fund and private equity
7 billionaires have built their influence,
8 particularly with the Senate and House
9 majority in Congress, and the most recent
10 reporting suggests that there will be tiny
11 tinkering around the edges on the federal
12 carried-interest loophole, they're not going
13 to close it, and our state could raise an
14 estimated \$3.5 billion every year just by
15 fairly taxing carried interest if Congress
16 isn't going to do it.

17 The third point I wanted to make goes
18 to the larger issues of inequality and social
19 cohesion. You know, the anger that we've
20 seen from the public about taxes and about
21 the economy is not because we've been taxing
22 millionaires and billionaires too little --
23 it's because regular, everyday working people
24 are paying their fair share and the

1 billionaires and multimillionaires are not.

2 Ron's chart that shows the
3 regressivity of the combined tax structure in
4 New York is exactly the right point we'd urge
5 the Legislature to pay attention to.

6 And to Senator Krueger's points
7 earlier, this is only going to get worse. I
8 believe that Congress is going to give us
9 multi-billion-dollar budget cuts, we're going
10 to have large holes in our state budget. And
11 if we lose the deductibility of state and
12 local taxes on the federal form, we are going
13 to raise an authentic populist outcry from
14 folks about their property taxes and their
15 state taxes. And that is a reasonable
16 outcry.

17 I think it's time for the Legislature
18 -- maybe not for the April 1st budget, but
19 going forward -- to think about shifting the
20 tax burden away from working people and
21 towards the people that can afford to pay and
22 who are minting new fortunes every day in
23 New York. New York is a great place to do
24 business. It's only getting better. The

1 unfair fact is that the billionaires and
2 multimillionaires have taken all of the gains
3 from -- since the collapse of the economy in
4 2007, and our tax policy at the state level
5 can provide an effective redress of some of
6 those inequalities. It can also assure that
7 we have the public schools, the healthcare,
8 the housing that our state needs to serve its
9 people fairly.

10 Thank you.

11 CHAIRMAN FARRELL: Questions?

12 SENATOR KRUEGER: Senator Savino.

13 SENATOR SAVINO: Thank you, Senator
14 Krueger.

15 Thank you, Michael, for the -- for
16 explaining -- because the carried interest
17 loophole had been mentioned more than once,
18 that it's a federal issue. So I just want to
19 thank you for clarifying the role that the
20 state has and how in fact we could -- so if
21 we were to do this and join with other
22 states, what would be the revenue effect on
23 New York State?

24 EXECUTIVE DIRECTOR KINK: We would

1 raise \$3.5 billion a year, according to our
2 estimate. We examined, using the Preqin
3 database of hedge fund and private equity
4 deals, the number and amount of deals that
5 were done in New York. We used a very
6 conservative estimate of the revenue yield; I
7 expect that it will be more than
8 \$3.5 billion. But that's the amount of money
9 that's lost at the federal level to this, you
10 know, basic straddle play between the tax
11 rate on long-term capital gains and the gain
12 on income.

13 It's not investment income. They
14 can't take a long-term capital loss. Their
15 own -- they don't have skin in the game in
16 terms of the investment. It is a fee. But
17 it's a unique type of income. And by doing
18 this surtax, we could raise a lot of the
19 money, and the other states could too. We're
20 all going to face big holes, and it's a fair
21 way to do it.

22 SENATOR SAVINO: Thank you.

23 SENATOR KRUEGER: Thank you.

24 EXECUTIVE DIRECTOR KINK: Thank you.

1 CHAIRMAN FARRELL: Thank you.

2 Teri Ross, president, New York State
3 Assessors' Association.

4 MS. ROSS: Good afternoon. Thank you
5 for allowing me to speak before you today.

6 I just want to comment on a couple of
7 quick, quick budget items that are in the
8 budget this year. And what I'm going to try
9 to concentrate my remarks on today is about
10 the STAR program. There's a couple of action
11 items in the budget, one of them being making
12 the IVP, the Income Verification Program,
13 mandatory for all senior citizens.

14 There were a lot of changes in last
15 year's budget regarding STAR, and in my
16 written testimony I've given you some of my
17 ideas on that. But I really want to
18 concentrate on making the IVP mandatory.

19 Our senior population, you know, are
20 very close to assessors' hearts. We are the
21 first line for these seniors and a lot of
22 questions that they have about government.
23 We're local, we're there for them.

24 I don't know how much you guys know

1 about the Income Verification Program for
2 senior citizens, but it is a program that if
3 you file a New York State income tax, instead
4 of coming in every year to your assessor's
5 office to renew your Enhanced STAR exemption,
6 which is based on income, you can give the
7 assessor your Social Security number and they
8 will enter it into a state system. The DTF,
9 the Department of Taxation and Finance, will
10 then check that income, notify the assessor
11 that the person still qualifies for the
12 exemption, and then we notify that senior
13 that they still qualify.

14 The problem making this program
15 mandatory is we have a lot of seniors that
16 don't file an income tax. Currently, of the
17 seniors that are on this program, I probably
18 have about 600 or 700 on the Income
19 Verification Program, and when we get a list
20 every year from DTF, we have a bunch of --
21 probably 100 to 200 people that they can't
22 determine their income. Maybe a spouse dies,
23 so they don't file in the right name,
24 something like that. So we have to reach out

1 to them anyway.

2 I have about 35 percent of my Enhanced
3 STAR seniors that don't file an income tax,
4 and way over 50 percent of my low-income aged
5 exemption seniors. I mean, that's low
6 income. I have seniors that make, you know,
7 \$11,000 a year.

8 We're there for them. We're the local
9 place for them to go. Part of this IVP
10 program, and making it mandatory, is that
11 it's another step for these seniors to do.
12 And it's a step that they can go online to
13 qualify for this program. A lot of seniors
14 are not computer-savvy. They're not going to
15 be comfortable going online.

16 The other way they're going to be able
17 to qualify for the IVP program is to call a
18 hotline number. I don't know if any of you
19 have gotten some phone calls this fall, this
20 winter, about people not receiving checks,
21 receiving wrong checks. The hotline DTF
22 number has had up to a three-hour wait. And
23 that is not a toll-free number.

24 I spoke in front of the Assembly last

1 week, and the members there could not believe
2 that this was not a toll-free number for
3 people to register for this really important
4 exemption for them.

5 So the senior population is being
6 affected the most. The seniors that want to
7 call to register, they're the ones that are
8 going to have the landlines. And if they
9 don't live in the Albany area, if they live
10 in Buffalo or Long Island or something,
11 that's obviously a toll number for them.

12 I believe that DTF right now is having
13 a hard time qualifying these people's income
14 that don't file a New York State return or a
15 federal return. Every year, they have to
16 come to the assessor's office to qualify for
17 their low-income aged exemption, and these
18 people come in with a grocery bag full of
19 papers and just hand them to us to go
20 through. I've even driven to their homes to
21 get this information from them. I just don't
22 see how making this mandatory IVP is going to
23 work.

24 In your packet, I've actually sent DTF

1 last week a compromise proposal. I believe
2 that one of the reasons that DTF wants this
3 IVP program mandatory is they want to be able
4 to check for double-dippers, for people like
5 a couple of years ago, when we did the basic
6 STAR registration and DTF found a few people
7 that were, you know, double-dipping, over
8 income, something like that.

9 So my compromise would be to have the
10 assessors input the seniors' information,
11 their Social Security numbers. Let DTF then
12 check those Social Security numbers to check
13 for double-dippers, but the assessor would
14 still be the one that is in the front lines
15 for them, still be the one that sends the
16 reminder notices, the reminder phone calls,
17 going to their houses to get this exemption
18 information, this income information.

19 So the New York State Assessors'
20 Association is vehemently opposed to that
21 part of the STAR action items.

22 There were two other action items on
23 there that we have a stance on, and one is
24 letting DTF lessen their secrecy a little bit

1 about giving the assessor some information
2 about some of these people so that we can
3 help them, maybe qualify them for different
4 exemptions.

5 Right now we've asked DTF quite a few
6 requests for information about our seniors
7 that they have that they can't share with us.
8 So yes, we are definitely in favor of that
9 portion of the STAR action items.

10 And the third one is straightening out
11 the co-op buildings. Right now, for those
12 new STAR checks that were sent last year --
13 were supposed to be sent last year to help
14 people pay for their school taxes -- right
15 now, currently, these co-op owners are
16 getting a hundred percent of what their STAR
17 exemption would be worth. Sometimes that's
18 more than what their school tax bill is. So
19 they're getting checks for \$1200, \$1500,
20 \$1800, \$2500 when maybe their school tax bill
21 was only a thousand.

22 So the action item that the Governor
23 has in his budget is to straighten that out,
24 to limit that to whatever they would pay on

1 their school taxes.

2 The same thing is happening -- I don't
3 know if any of you have mobile home parks in
4 your area, but the mobile home owners of the
5 actual units in there are eligible for STAR
6 as well. Right now DTF is sending them
7 checks based on a value of \$20,000 throughout
8 the state.

9 Now, I know in Long Island there are a
10 bunch of mobile home parks where their values
11 of their mobile homes are way over \$20,000,
12 and I know of mobile home parks in New York
13 State where the values of those units are
14 \$4,000.

15 So what we're asking is for that to be
16 straightened out as well, to base their STAR
17 checks, just like we do on the exemptions, on
18 the actual value of those individual units or
19 co-op units.

20 CHAIRMAN FARRELL: Thank you.

21 SENATOR KRUEGER: Thank you.

22 CHAIRMAN FARRELL: Questions?

23 Mr. Oaks.

24 ASSEMBLYMAN OAKS: Just a quick

1 comment. I appreciate having people on the
2 front lines who are making a lot of the
3 recommendations, and thank you for pointing
4 those out. And also for giving us a pretty
5 extensive packet to follow up on as well. So
6 thank you.

7 MS. ROSS: Okay, thank you.

8 CHAIRWOMAN YOUNG: Thank you.

9 So the commissioner of Tax talked
10 today about the PIT checks and so on, and the
11 comment was that the assessors aren't getting
12 the right information to the state. So how
13 could the system be changed?

14 MS. ROSS: They're getting -- I wasn't
15 here for the commissioner. I really wish I
16 was, because at last week's Assembly hearing,
17 they declined to show up.

18 So did they say -- did she say that
19 they were not getting the right information
20 from the assessors?

21 CHAIRWOMAN YOUNG: Right. Basically,
22 they're saying it was because the local
23 assessors weren't getting them the correct
24 information.

1 MS. ROSS: Absolutely not.

2 I'm on a STAR team, actually, that
3 meets weekly, a teleconference team, with DTF
4 members, with county directors and other
5 assessors. We've been working since 2013
6 with them on a weekly basis trying to wade
7 through these waters of changes to STAR, and
8 especially this year when it -- you know, it
9 changed at the last minute with the STAR
10 check credits in April so new homeowners get
11 the checks.

12 We've worked with them extensively,
13 and in almost every instance DTF has put up a
14 roadblock. We have requested in person
15 meetings with DTF, we've requested
16 compromises, we have sent them everything
17 they have asked for, and I know that -- I
18 don't want to speak badly about DTF. I know
19 a lot of this is they were given this program
20 to do and they had to try to make it work.

21 I don't see that program ever working,
22 personally.

23 CHAIRWOMAN YOUNG: Why is that?

24 MS. ROSS: For one thing, most people

1 have to pay their school tax bills by
2 September 30th, or they're into a penalty
3 period. I'm not going to talk about this
4 year, because this was the first year and it
5 was a disaster.

6 But the way this schedule goes,
7 schools do not confirm their tax rates until
8 the end of August. Then the tax bill
9 preparers have to run their programs. Those
10 programs have to be sent to DTF. DTF then
11 has to look at those programs and figure out
12 who gets checks and who doesn't get checks.
13 They have to calculate the checks. Those
14 checks have to be checked before they're
15 sent.

16 I don't think physically they can get
17 those checks to people before they have to
18 pay their school tax bills. This year those
19 checks did not go out until the end of
20 September, and a lot of those checks were
21 wrong and had to have second checks.

22 You can see all of that in my
23 testimony, because I really concentrated on
24 that.

1 But I really don't see how they are
2 going to physically get these checks to
3 people before they have to pay their school
4 tax bill. And that's what they're there for.
5 Those checks are supposed to be the same
6 benefit as the exemption. And instead of
7 having the exemption automatically reduce
8 your school tax bill, these people get the
9 checks to help them pay their tax bill.

10 I personally do not know how -- any
11 way possible this is saving the state money,
12 having -- you know, instead of sending
13 720 wire transfers to the school districts,
14 they're now sending over 2 million checks.
15 Just that alone, I can't imagine the time and
16 effort and manhours that go into that. And
17 it's been fraught with issues from the
18 beginning.

19 We are -- the assessment community is
20 there for DTF. We will do everything
21 possible to help our taxpayers. And if it
22 was up to me, if I personally was asked, I
23 would want the whole -- every change in last
24 year's budget that pertained to STAR to be

1 repealed. It's just not going to work.

2 CHAIRWOMAN YOUNG: Thank you. Thank
3 you very much.

4 SENATOR KRUEGER: I just want to thank
5 you for your detailed proposal.

6 And when the commissioner was here, I
7 actually took the position we should go back
8 to what we had and drop this whole system.

9 MS. ROSS: Exactly.

10 SENATOR KRUEGER: And you think we
11 could.

12 MS. ROSS: I think we could. I think
13 a lot of assessors have said they don't want
14 anything to do with it anymore, that the
15 Department of Taxation and Finance, whomever,
16 has messed it up so badly they want them to
17 keep it.

18 Then there's another side of the
19 assessors that want it back, that want to be
20 our advocates for our taxpayers, make sure
21 they get the exemptions they want, make sure
22 that they have reduced tax bills, help them
23 pay their tax bills.

24 I'm on the side of wanting the whole

1 thing repealed.

2 SENATOR KRUEGER: Thank you.

3 MS. ROSS: You're welcome.

4 CHAIRMAN FARRELL: Thank you.

5 ASSEMBLYMAN OAKS: Thank you.

6 CHAIRWOMAN YOUNG: Thank you.

7 CHAIRMAN FARRELL: John Olsen,
8 executive director, New York State Internet
9 Association.

10 MR. OLSEN: Good afternoon.

11 CHAIRWOMAN YOUNG: Good afternoon.

12 CHAIRMAN FARRELL: Good afternoon.

13 MR. OLSEN: Hello, Chairwoman Young,
14 Chairman Farrell, Assemblyman Oaks, Senator
15 Krueger, Senator Savino. Thank you for
16 allowing me to testify today. My name is
17 John Olsen, and I'm the New York executive
18 director for The Internet Association.

19 The Internet Association is the
20 unified voice of the internet economy,
21 representing interests of leading internet
22 companies and their global community of
23 users. It is dedicated to advancing public
24 policy solutions that foster innovation,

1 promote economic growth, and empower people
2 through the free and open internet.

3 I am here before you today to comment
4 on some of the provisions Governor Cuomo has
5 included in his Executive Budget. In
6 addition, I would like to encourage the
7 Legislature, the Governor, and all interested
8 parties to use The Internet Association as a
9 resource when crafting policy that impacts
10 e-commerce.

11 Users and regulators alike must be
12 cognizant of the fact that the internet
13 provides not only new and unique products and
14 services, but also a medium for traditional
15 products, services, and businesses to improve
16 productivity and increase availability.
17 Policymakers must begin to move past
18 antiquated regulatory and statutory regimes
19 and perceptions about the internet.

20 While historically recognized as the
21 Information Superhighway, the internet has
22 become much more than that. The internet is
23 a complex economic, social, political, and
24 cultural ecosystem -- one without physical

1 borders and limitless potential.

2 With this concept in mind, I would
3 like to address two specific proposals in the
4 Governor's budget.

5 Number one, provide access to
6 important and enhanced transportation options
7 for residents and visitors throughout
8 New York State. The Internet Association
9 applauds Governor Cuomo for proposing to
10 bring ride-sharing to upstate New York and
11 thanks him for including it among his budget
12 proposals. And thank you again to the Senate
13 for passing your bill yesterday.

14 However, IA has some concerns related
15 to the imposition of a 7.5 percent fee, which
16 is one of the highest assessments applied to
17 transportation network companies in the
18 nation. IA requests the Legislature to
19 consider a lower tax on fares, similar to the
20 bill passed yesterday, to ensure
21 transportation options such as Uber and Lyft
22 remain affordable to all citizens of
23 New York.

24 Number two, modernize sales tax

1 collection to reflect the internet economy.

2 IA is opposed to this proposal.

3 Online marketplaces are an essential segment
4 of the internet economy. Including
5 marketplace providers in New York law would
6 set a new precedent for discriminatory tax
7 collection. If applied to a brick-and-
8 mortar marketplace, for example, this
9 proposal would require large shopping centers
10 to collect the sales tax for all purchases
11 made in their tenant stores.

12 Online marketplaces provide a forum to
13 connect retailers in New York to consumers
14 globally, and vice versa. Requiring these
15 platforms to collect and remit sales tax
16 would create undue compliance burdens for
17 growing marketplaces. As the world continues
18 to move to digital platforms, more and more
19 companies providing online sales are likely
20 to meet the imposed \$100 million threshold in
21 annual sales and would be considered a
22 "marketplace provider" under state law.

23 New York companies may choose to limit
24 their growth to avoid the burden of sales tax

1 collection and thus discourage innovation,
2 workforce development, and new hires.

3 New York State has advertised
4 repeatedly that it is a state that is open
5 for business. An entire sector of the
6 internet economy stands to become closed for
7 business with adoption of this proposal. IA
8 urges lawmakers to reject this provision and
9 ensure New York remains competitive in a
10 growing e-commerce economy.

11 The Internet Association stands ready
12 to provide a voice for its members, the tech
13 economy, and users in New York State. IA
14 welcomes the opportunity to provide guidance
15 and knowledge about this unique and
16 ubiquitous element of everyday life.

17 I thank you for your time today and
18 would be happy to answer any questions you
19 may have.

20 CHAIRMAN FARRELL: Thank you.

21 Questions?

22 CHAIRWOMAN YOUNG: Senator Krueger.

23 SENATOR KRUEGER: Hi.

24 MR. OLSEN: Hello.

1 SENATOR KRUEGER: I actually would
2 like meeting with you at another time,
3 because I have a much larger set of questions
4 than I think apply to the tax issues today.

5 MR. OLSEN: I would welcome that.

6 SENATOR KRUEGER: All right. Because
7 a significant frustration of mine is the
8 world of business is moving to the internet,
9 I get it, and yet the internet companies
10 individually seem to think that they're not
11 businesses, they're magic, because their
12 platform is on an internet and they don't
13 have to have liability and they don't have to
14 pay taxes and they don't have to compete with
15 non-internet businesses under the same rules
16 of the road. So that's the meeting I would
17 like to have.

18 But specifically to the two
19 recommendations you're making here, do you
20 actually think that because I order my livery
21 car on an app, I ought to pay a different
22 rate of taxes than if I am calling them on
23 the phone or waving them down on the street
24 of my town? And why?

1 MR. OLSEN: Well, I think we're just
2 seeking parity with other states and what
3 they've imposed as an assessment on all
4 fares. The average is about 4 percent, which
5 is what was passed yesterday. I think -- you
6 know, I consider 7.5 percent one of the
7 highest in the nation. And therefore, we're
8 just seeking options that would allow
9 affordability for everyone, including in
10 upstate New York.

11 SENATOR KRUEGER: But in New York we
12 tend to apply our taxes to be equitable
13 across the state, not in competition with
14 other states. I mean, when you're picking up
15 people in New York State, you're doing
16 business in New York State, would you agree?

17 MR. OLSEN: Right.

18 SENATOR KRUEGER: Okay. So you want a
19 national, I don't know, average, but in fact
20 that's not really how state and local tax
21 policy work anywhere in the country.

22 And you talked about, under the
23 marketplace modernization -- and I had asked
24 the commissioner some questions about taxing

1 when you're above \$100 million and not taxing
2 when you're below \$100 million in sales.
3 You're going a different direction on this,
4 but you say that companies will choose to
5 stay below \$100 million to avoid the taxes.
6 How would they do that?

7 MR. OLSEN: Well, I think they would
8 just inhibit growth in their own companies.
9 I think rather than becoming tax collectors,
10 they would rather stay below the cap and
11 operate as they continue to operate, instead
12 of continuing to grow.

13 SENATOR KRUEGER: So again, in
14 bricks-and-mortar businesses, I don't think
15 companies choose not to expand their business
16 because they have a tax cost. But you think
17 in the world of internet, because it's
18 different, internet providers will choose not
19 to get bigger and make more money for
20 themselves because then they have to collect
21 and remit taxes?

22 MR. OLSEN: I think we need to start
23 thinking about the internet a little
24 differently than how we've already done,

1 especially when it comes to statutory and
2 regulatory regimes. We need to start looking
3 at the internet in a more broad sense rather
4 than just, you know, this magic place that is
5 exempt from the rules.

6 It's not that our companies do not
7 want to collect taxes, but we would like a
8 scheme that reflects the global e-commerce
9 economy rather than a patchwork attempt from
10 state to state.

11 I think we would support federal
12 regulation that evens the playing field
13 throughout, you know, the United States. But
14 as far as New York is concerned, I think this
15 is setting a new precedent for discriminatory
16 tax collection. These aren't marketplaces,
17 they're forums. They're not necessarily
18 brick-and-mortar vendors.

19 SENATOR KRUEGER: Right. And because
20 they're not brick-and-mortar venues, they
21 don't provide jobs for people in the State of
22 New York or taxes at the local level, at the
23 local stores, and they actually are doing --
24 I shop on the internet. I'm not telling you

1 I'm not. I'm no Luddite. But they are
2 actually having a real impact on jobs and
3 businesses and communities.

4 When we have that meeting -- and
5 you're welcome to bring whoever you wish to
6 it -- I'd also like you to be prepared to
7 talk to me about the fact that a
8 disproportionate number of the larger
9 internet business companies are choosing to
10 establish a nexus outside of the U.S., so
11 they're not paying federal taxes either.

12 So they don't want to pay the taxes at
13 the state or local level, but they also are
14 not paying taxes at the federal level.

15 So I look forward to setting up that
16 meeting to have a further discussion.

17 MR. OLSEN: I welcome that discussion
18 as well, Senator. Thank you.

19 SENATOR KRUEGER: Thank you.

20 CHAIRMAN FARRELL: Any further
21 questions? Thank you very much.

22 And we are finished for the day.

23 (Whereupon, the budget hearing
24 concluded at 12:50 p.m.)