

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  
2019-2020 EXECUTIVE BUDGET ON  
5 WORKFORCE DEVELOPMENT

6 -----

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

9 February 4, 2019  
10 3:48 p.m.

11

12 PRESIDING:

13 Senator Liz Krueger  
Chair, Senate Finance Committee  
14  
15 Assemblywoman Helene E. Weinstein  
Chair, Assembly Ways & Means Committee

16 PRESENT:

17  
18 Senator James L. Seward  
Senate Finance Committee (RM)  
19  
20 Assemblyman William A. Barclay  
Assembly Ways & Means Committee (RM)  
21  
22 Senator Jessica Ramos  
Chair, Senate Committee on Labor  
23  
24 Assemblyman Marcos A. Crespo  
Chair, Assembly Committee on Labor  
25  
26 Senator Andrew Gounardes  
Chair, Senate Committee on Civil Service  
and Pensions

1 2019-2020 Executive Budget  
Workforce Development

2 2-4-19

3 PRESENT: (Continued)

4 Assemblyman Peter J. Abbate, Jr.  
Chair, Assembly Committee on  
5 Governmental Employees

6 Senator Diane J. Savino  
Chair, Senate Committee on Internet and  
7 Technology

8 Assemblyman Walter T. Mosley  
Chair, Assembly Commission on Skills  
9 Development and Career Education

10 Senator Rich Funke

11 Assemblywoman Diana Richardson

12 Senator Shelley Mayer

13 Assemblyman Harry Bronson

14 Senator Jamaal Bailey

15 Assemblywoman Catalina Cruz

16 Senator Robert E. Antonacci

17 Senator Robert Jackson

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1 2019-2020 Executive Budget  
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 2 2-4-19

3 LIST OF SPEAKERS

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5 Roberta Reardon  
 Commissioner

6 Department of Labor 7 16

7 Lola Brabham  
 Acting Commissioner

8 NYS Department of  
 Civil Service 79 85

9 Michael N. Volforte

10 Director  
 NYS Governor's Office of

11 Employee Relations (GOER) 124 130

12 Fran Turner  
 Director of Legislative

13 and Political Action  
 Civil Service Employees

14 Association, Local 1000 152 159

15 Randi DiAntonio  
 Vice President

16 NYS Public Employees  
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17 Barbara Zaron

18 President  
 Joseph Sano

19 Executive Director  
 Organization of NYS Management

20 Confidential Employees (OMCE) 194

21 Edward Farrell  
 Executive Director

22 Retired Public Employees  
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1 2019-2020 Executive Budget  
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3 LIST OF SPEAKERS, Continued

4 STATEMENT QUESTIONS

5 Martha Ponge  
Director of Apprenticeship  
6 Manufacturers Association of  
Central New York (MACNY)  
7 -and-  
Harold King  
8 President  
Council of Industry  
9 -on behalf of-  
Manufacturers Intermediary  
10 Apprenticeship Program 208 215

11 Nikki Brate  
Member  
12 Professional, Scientific and  
Technical Collective  
13 Bargaining Unit 217 224

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1 CHAIRWOMAN KRUEGER: Pursuant to the  
2 State Constitution and Legislative Law, the  
3 fiscal committees of the State Legislature  
4 are authorized to hold hearings on the  
5 Executive Budget. Today's hearing, the  
6 seventh of 13 -- it's like halfway through,  
7 Helene.

8 CHAIRWOMAN WEINSTEIN: This is it.

9 CHAIRWOMAN KRUEGER: This is it.  
10 -- will be limited to a discussion of  
11 the Governor's proposed budget for the  
12 Department of Labor, Department of Civil  
13 Service, and the Governor's Office of  
14 Employee Relations.

15 Following each presentation, there  
16 will be some time allotted for questions from  
17 the chairs of the fiscal committees and the  
18 other relevant committees.

19 Representing each of these agencies, I  
20 would like to welcome Roberta Reardon,  
21 commissioner of Department of Labor; Lola  
22 Brabham, acting commissioner, Department of  
23 Civil Service; and Michael Volforte, director  
24 of Governor's Office of Employee Relations.

1 The commissioners' testimonies will be  
2 followed by a question-and-answer period from  
3 the Legislature.

4 After the final question-and-answer  
5 period, an opportunity will be provided to  
6 members of the public to briefly express  
7 their views on the budget under discussion  
8 today.

9 And introducing the Senators that I  
10 see before me, Senator Seward; Senator Funke;  
11 and our new chair of Civil Service --

12 SENATOR GOUNARDES: -- and Pensions,  
13 yup.

14 CHAIRWOMAN KRUEGER: -- and Pensions,  
15 thank you.

16 And my Assembly colleagues?

17 CHAIRWOMAN WEINSTEIN: So from the  
18 Assembly we have Peter Abbate, chair of our  
19 Governmental Employees Committee; Assemblyman  
20 Crespo, chair of our Labor Committee;  
21 Assemblywoman Diana Richardson; and  
22 Assemblyman Harry Bronson, former counsel to  
23 the Assembly Labor Committee.

24 So Liz?

1 CHAIRWOMAN KRUEGER: So Senator --  
2 Senator Reardon? I'm losing my mind, I  
3 apologize. Commissioner, would you like to  
4 be demoted to Senator?

5 (Laughter.)

6 COMMISSIONER REARDON: No.

7 (Laughter.)

8 CHAIRWOMAN KRUEGER: The Commissioner  
9 of Labor, thank you.

10 COMMISSIONER REARDON: Thank you very  
11 much. Thank you for that excellent  
12 introduction. My husband will be very  
13 surprised.

14 (Laughter.)

15 CHAIRWOMAN KRUEGER: Mine would be  
16 delighted if you traded with me, but --

17 COMMISSIONER REARDON: We'll have  
18 discussions afterwards.

19 CHAIRWOMAN KRUEGER: Okay, fine.

20 COMMISSIONER REARDON: Negotiations.

21 So Chairs Krueger and Weinstein and  
22 distinguished members of the committees,  
23 thank you for the opportunity to discuss  
24 Governor Andrew Cuomo's proposed 2020 budget

1 and highlight the work of the Department of  
2 Labor.

3 I have never been more proud to be  
4 serving the people of New York State by  
5 leading the DOL. As I travel regularly  
6 across the state, it's clear that landscape  
7 is changing ever-quicker. But the foundation  
8 we have worked so hard to build and maintain  
9 is solid.

10 Under Governor Cuomo, we are committed  
11 like never before to coming together around  
12 the fundamental principles -- lifting up  
13 workers, supporting businesses, and  
14 protecting the public. Building on a  
15 tremendous record of accomplishments, in this  
16 new term we have a renewed vision, renewed  
17 focus, and a renewed promise to serve all  
18 New Yorkers. I want you to leave today with  
19 an better sense of who we are, how we serve,  
20 how we can work together and how we are your  
21 DOL.

22 First, by supporting workers.  
23 December 31, 2018, marked a historic day in  
24 New York State as our minimum wage increased



1 again in another step towards a \$15 minimum  
2 wage statewide. For the first time,  
3 thousands of workers in New York City now  
4 must make at least \$15 an hour. This is a  
5 vital part of Governor Cuomo's vision to  
6 bring economic justice and fairness to  
7 working families.

8 And the phase-in is working.  
9 Businesses are adjusting, not shutting their  
10 doors. Last year growth and average hourly  
11 earnings outpaced similar earnings nationally  
12 and the U.S. inflation rate. And you played  
13 a major role in making this a reality.

14 We stand by our workers, especially  
15 hardworking immigrants, the lowest-paid and  
16 the most vulnerable, making sure that if  
17 someone's hard-earned wages are stolen, we  
18 recover every penny earned. Last year the  
19 Department of Labor investigators recovered  
20 more than \$35 million and returned it to more  
21 than 35,000 workers victimized by wage theft.  
22 Since the Governor took office, this agency  
23 has recovered and returned more than \$285  
24 million to more than a quarter of a million

1 workers.

2 Still, a few bad employers knowingly  
3 steal tens of millions of dollars from  
4 workers each year. The Governor is proposing  
5 a new tool to help eradicate this practice by  
6 deterring it in the first place. We want to  
7 increase the criminal penalties for bad  
8 actors and empower prosecutors to take swift  
9 action by making these intentional thefts a  
10 felony. This will be a game-changer in  
11 eradicating wage theft, a goal that all of us  
12 share.

13 The New York Youth Jobs program  
14 incentivizes the hiring of at-risk youth with  
15 tax credits for businesses. Since 2012, the  
16 youth unemployment rate has been nearly cut  
17 in half, due in part to this program. Over  
18 the past six years we have connected  
19 130,000 young people to stable jobs with  
20 2500 employers. Last year you helped  
21 increase the maximum tax credit by  
22 50 percent, and I'm proud to tell you we had  
23 a record year. And we look forward to more  
24 growth in 2019.

1           We continue to be laser-focused on  
2 helping job seekers in poverty-stricken  
3 communities. Unemployment Strikeforce teams  
4 work with local businesses to identify  
5 openings, match likely candidates with those  
6 positions, and leverage relationships with  
7 local training partners to fill worker skill  
8 gaps. Since we launched this program in  
9 2014, we have engaged more than 162,000  
10 individuals, with more than 76 percent of  
11 them finding work.

12           This year, at the Governor's  
13 direction, we will bring this successful  
14 model to new locations, including Syracuse,  
15 Elmira, and Binghamton. And we'll be working  
16 to align Strikeforce teams with ESPRI  
17 communities and the strategic efforts to  
18 reduce poverty already underway.

19           We continue to be a key player in the  
20 Governor's Women's Agenda. Last year we  
21 released our gender wage-gap report, which I  
22 cochaired with Lieutenant Governor Kathy  
23 Hochul, outlining dozens of strategic  
24 recommendations to help close it. Hours of

1 hearings and research highlighted where we  
2 can do more. That's why we're continuing our  
3 push for a salary history ban. Because if a  
4 woman makes less than a man to begin with, or  
5 if she took time off to raise a child, she  
6 shouldn't be penalized for that for the rest  
7 of her career.

8 We're also working to make sure that  
9 employers are training their workers about  
10 sexual harassment in the workplace. Last  
11 year we worked with stakeholders across the  
12 spectrum to create model policy and training  
13 materials to make it turnkey and  
14 cost-effective for employers and meaningful  
15 for employees, who are all required to be  
16 trained under the law.

17 We continue to support workers and  
18 businesses through registered apprenticeship  
19 programs, a time-honored model that combines  
20 on-the-job training with classroom  
21 instruction. Last year we launched the  
22 Empire State Apprenticeship Tax Credit  
23 Program to expand the apprenticeship model to  
24 in-demand occupations throughout the state.

1           This year we're setting the bar  
2 higher, committing to double the number of  
3 apprenticeships in high-demand fields by  
4 2025, industries like high-tech, healthcare,  
5 clean energy, and advanced manufacturing.  
6 We're also committing to double the number of  
7 women in all apprenticeships by 2025, and  
8 we're going to expand our marketing efforts  
9 to target parents and guidance counselors,  
10 showing the power of apprenticeship as a  
11 proven alternative to great jobs without  
12 racking up college debt.

13           We continue to modernize our 96  
14 New York State Career Centers, upping our  
15 digital offerings so we're meeting younger  
16 generations at their level. Over the past  
17 year, our Career Center system served nearly  
18 500,000 people.

19           We're also excited to be part of the  
20 rollout of the Governor's \$175 million  
21 commitment to workforce training programs,  
22 and we expect announcements on this soon.

23           Our strong economy is allowing renewed  
24 focus on those who are unemployed. Today the

1 trust fund that pays for Unemployment  
2 Insurance benefits is stronger than ever,  
3 ending last year at \$2.4 billion, a stark  
4 difference from a system on the brink of  
5 insolvency during the last recession.

6 2013's reform package has helped  
7 future-proof this crucial benefit system,  
8 raising benefits for workers by lowering  
9 costs for employers. But today our  
10 unemployment system still discourages  
11 claimants from working part-time, unlike  
12 every other state in the union. This year we  
13 should revise this system to change how  
14 part-time work factors in, measuring  
15 part-time work by a dollar amount and not by  
16 the whole day. This will encourage more  
17 unemployed workers to hone their skills and  
18 connect back to full-time work.

19 We're not just the DOL for workers.  
20 Like never before, we are helping businesses,  
21 connecting them to hiring incentives, helping  
22 them find workers, and making sure they  
23 understand their rights and responsibilities  
24 under the law. We have regional business

1 teams that spread across the state, ready to  
2 help businesses large and small. In 2018, my  
3 department hosted or participated in 900 job  
4 fairs and recruitment events, serving 8800  
5 businesses and 65,000 job seekers.

6 Every day we're helping more  
7 businesses add their job listings to the  
8 Governor's Jobs Express website. And we  
9 custom-tailor our services to each business.  
10 If you have businesses in your district that  
11 need assistance, let us help. I mean it.  
12 Call me, and we will make the connection and  
13 get to work on their behalf.

14 I want to end along the lines where I  
15 began. Today I've shared with you successes  
16 of the recent past and our goals for the  
17 future. But what I think underscores this  
18 entire conversation is that we have been able  
19 to make all this progress while growing jobs  
20 like never before. Since Governor Cuomo took  
21 office, New York State has added more than  
22 1.1 million private-sector jobs, bringing the  
23 total to more than 8.2 million. And that's  
24 an all-time high.

1           The state's unemployment rate is  
2   3.9 percent, which is the lowest rate in  
3   history. Every region has seen a dramatic  
4   drop in its unemployment rate, and the number  
5   of unemployed New Yorkers has fallen to its  
6   lowest level in more than 30 years.

7           At a time when our nation is at a  
8   crossroads, New York State is a beacon for  
9   hope and determination. Under this Governor  
10   and our progressive legislature, we have both  
11   a tremendous opportunity and an enormous  
12   duty. It is our collective mission to  
13   improve the lives of all New Yorkers.  
14   Whether you're a single dad working minimum  
15   wage, the leader of a major company, a  
16   student in middle school who's not sure what  
17   she wants to do for a career, or someone  
18   working at a community-based organization  
19   living out their dream, this is your time.  
20   Your state loves you. And we are your DOL.

21           CHAIRWOMAN KRUEGER: Thank you.

22           Senator Seward.

23           SENATOR SEWARD: Thank you, Madam  
24   Chair. And thank you, Commissioner, for



1 being here.

2 I had a question regarding the  
3 workforce development funding that was  
4 \$175 million that was in last year's budget.

5 Do you expect that to be continued this year?

6 COMMISSIONER REARDON: Yes, the office  
7 -- we're expecting more announcements on the  
8 office coming forward. That is not just a  
9 Department of Labor focus. We are a part of  
10 it, because a lot of what we do is workforce  
11 development. But there are other workforce  
12 development programs around in other  
13 agencies. So that office will be  
14 coordinating.

15 And my understanding is that they're  
16 going to help make sure that the REDCs have  
17 their priorities and that they will align  
18 those priorities with the workforce  
19 development in each area.

20 SENATOR SEWARD: Do you have a contact  
21 at DOL that I can refer -- there's a lot of  
22 local interest in my area in workforce  
23 development. There's a huge need.

24 COMMISSIONER REARDON: My deputy

1 commissioner for workforce development is  
2 Karen Coleman, she's sitting behind me, with  
3 red hair.

4 (Laughter.)

5 SENATOR SEWARD: Okay.

6 COMMISSIONER REARDON: And she would  
7 be happy to field those calls. We're always  
8 happy to talk to businesses and workers who  
9 are looking for jobs.

10 SENATOR SEWARD: Very good. We'll  
11 follow up with that.

12 I just wanted to -- this may be a bit  
13 off-topic in terms of budget, but I know that  
14 DOL went around the state on these tipped  
15 wage hearings and so on. Where are we on  
16 that? Is that sort of on hold? I would hope  
17 it would be. I'm not pushing it. Because  
18 every worker that I hear from that is in a  
19 tipped wage situation, they don't want any  
20 further changes because they feel it would be  
21 to their detriment rather than to their  
22 benefit.

23 COMMISSIONER REARDON: So I'm glad you  
24 asked that question. We had 40 hours of

1 testimony, we held seven public hearings.  
2 I'm very proud to say that I sat for 40 hours  
3 listening to everyone, because I thought that  
4 was my responsibility. And we heard from all  
5 around the table, we heard from everyone who  
6 works for tips as well as the people who  
7 employ them.

8 It was an incredibly robust  
9 discussion -- and active, I might add. We  
10 have over 3,000 written comments. We're  
11 looking at academic studies and data from  
12 others states. So there's an enormous amount  
13 of plain information for us to work through.  
14 We are doing our due diligence and we will be  
15 releasing our recommendations, but we're not  
16 trying to do it quickly, we're trying to do  
17 it well.

18 SENATOR SEWARD: Take your time, from  
19 my perspective.

20 (Laughter.)

21 SENATOR SEWARD: I wanted to ask  
22 you -- I know this also involves other  
23 agencies in addition to DOL. But with the  
24 minimum wage increases, upstate, of course,

1 we're still in the yearly increases. As part  
2 of the legislation that enacted the minimum  
3 wage increase, there was to be some studies  
4 done, I think they start in 2019, in terms of  
5 assessing the impact on our state's economy,  
6 and particularly upstate, where we're more  
7 fragile, let's face it.

8 Now, have you heard anything about  
9 commencing such studies in 2019? Or where do  
10 you see that going?

11 COMMISSIONER REARDON: Well, let me  
12 just note that we're one month into 2019, so  
13 yes, I'm sure we are always collecting  
14 workforce data, so I'm sure that collection  
15 is going on as we speak.

16 The Department of Budget will be  
17 overseeing it, and then we'll be working with  
18 them. So that is just beginning.

19 I want to congratulate all of you,  
20 honestly, on the thoughtful way that you  
21 approached the minimum wage. As I've  
22 traveled around the state and talked to  
23 businesses large and small, and to workers,  
24 it's very clear that the tiered approach was

1 a very thoughtful approach for many, many,  
2 many parts of the state. And you put a lot  
3 of effort into that, and I think it's paying  
4 off.

5 The workers, of course, are very happy  
6 to have a raise. It's very hard to live on  
7 \$18,000 a year, which is what the previous  
8 minimum wage was. But we want to make sure  
9 that businesses have the time to absorb it.

10 And I think that's working.

11 SENATOR SEWARD: Thank you for your  
12 answer. We'll look forward to the -- there's  
13 more months in 2019, and getting to that.

14 My final issue and question revolves  
15 around the wage theft that you mentioned. Do  
16 you have any numbers in terms of the number  
17 of incidents of reported wage --

18 COMMISSIONER REARDON: Discrete  
19 incidents?

20 SENATOR SEWARD: And are they in any  
21 particular industry, sector or particular  
22 geographic area of the state?

23 COMMISSIONER REARDON: That is a  
24 really good question. My understanding is

1 that it is not particularly located in one  
2 industry or one particular region of the  
3 state. I can get you, you know, more details  
4 on that.

5 But the \$35 million that we recovered  
6 this past year, I must say it's a record for  
7 the country. And we take it, of course,  
8 very, very seriously. What we would really  
9 love to see is the bill in the budget to  
10 penalize people who egregiously steal wages,  
11 because that would really be a deterrent.

12 SENATOR SEWARD: Thank you for your  
13 answers.

14 COMMISSIONER REARDON: Thank you.

15 CHAIRWOMAN KRUEGER: Thank you.  
16 Assembly.

17 CHAIRWOMAN WEINSTEIN: Thank you.  
18 Marcos Crespo, chair of Labor.

19 ASSEMBLYMAN CRESPO: Thank you.

20 Good afternoon, Commissioner. It's  
21 good to see you.

22 COMMISSIONER REARDON: Good afternoon.

23 And congratulations.

24 ASSEMBLYMAN CRESPO: Before I even ask

1 my question, I want to thank you for your  
2 partnership over the years. Because I know  
3 much of the work that's been done -- and  
4 Strikeforce, for example, has done a lot in  
5 the Bronx and we're grateful for that, and  
6 the numbers and the trends.

7 I wanted to ask you a couple of things  
8 in following up on the questions regarding  
9 the workforce development fund. The  
10 appropriation that was made, has any of that  
11 money already gone out the door to programs?

12 COMMISSIONER REARDON: Not that I know  
13 of. I know the money from the DOL has not.  
14 I don't think any of it's been disbursed yet.  
15 It's going to be an enlarged CFA process.  
16 And we are waiting for the director to be  
17 named, which I think may be coming soon, I  
18 don't know. But that is the purpose of it.

19 ASSEMBLYMAN CRESPO: And the type of  
20 outreach that's made, how is the outreach  
21 made to programs in underserved communities?  
22 How do organizations know the process they  
23 have to go through, what the money's intended  
24 for, and how they can tap into those funds

1 and do the work that they need to do? What's  
2 the outreach?

3 COMMISSIONER REARDON: So every year  
4 we have the CFAs, and there's a fair amount  
5 of, you know, notice that goes out. We  
6 certainly have information at all of our  
7 Career Centers. When we reach out to  
8 businesses and our community partners, we  
9 also have that information. The business  
10 services reps also carry that information  
11 when they go out into the community.

12 I know that we have sessions before  
13 the period starts about how to do the CFA  
14 technically, so people understand what's  
15 expected of them. Once the application  
16 process is in place, I think we have to be a  
17 little more hands-off. But certainly if  
18 people have questions about it, they can call  
19 us before the CFA program opens.

20 But there is a lot of information out  
21 there. And, you know, I can connect you  
22 offline with someone in Karen's shop,  
23 frankly, again, to have bigger conversations.  
24 But we really want to make sure that the



1 community partners know about it.

2 I travel a lot around the state, as  
3 you know, and I make a point of talking to --  
4 whether it's an industry partner or a  
5 community partner or a union, whoever we're  
6 talking to, I want to make sure they  
7 understand what's available from the  
8 Department of Labor to help them. And  
9 certainly the CFA is going to be a large part  
10 of it.

11 ASSEMBLYMAN CRESPO: And also we  
12 enacted legislation to require a database on  
13 the website of workforce development  
14 programs. Has that been -- do you know if  
15 that's up?

16 COMMISSIONER REARDON: The catalog.  
17 I'm -- I think it is. I know that we've  
18 worked on it, and I'm pretty sure it's up.  
19 But let me check and see.

20 ASSEMBLYMAN CRESPO: I don't think our  
21 folks found it, so --

22 COMMISSIONER REARDON: Oh, okay.  
23 Well, our website is under redesign, so ...

24 ASSEMBLYMAN CRESPO: I appreciate the

1 numbers you gave on the New York Youth Jobs  
2 program. The changes that were made last  
3 year, the reporting requirements and  
4 increased oversight, what are the trends and  
5 terms of utilization of the program? Are  
6 more businesses signing up year to year? Is  
7 there numbers data year to year that we could  
8 look at in terms of employers and employees  
9 that have taken advantage of the program, and  
10 where in the state that's happened?

11 COMMISSIONER REARDON: Well, certainly  
12 the number of youth that are enrolled in the  
13 program has increased enormously. I think  
14 last year with the increase in the tax  
15 credit, I think we got over a 45 percent  
16 increase. So there's definitely a higher  
17 usage by young people.

18 The number of employers has stayed  
19 relatively stable, around 2500, kind of give  
20 or take. We think it would actually be a  
21 great tax credit for smaller businesses,  
22 because it would have more impact for them.  
23 So again, our business services reps, when  
24 they go out to the businesses in the

1 community, that's one thing they talk about.

2 I just had a meeting last week on  
3 Staten Island with someone in a small  
4 business, and he was struggling with how do I  
5 stay afloat, what's available. And I told  
6 him -- he didn't know about the tax credit.  
7 So we're going to send business services out  
8 to work with him.

9 And we make sure, to the best of our  
10 ability, that we can engage businesses in  
11 these conversations, because it's really a  
12 great program.

13 ASSEMBLYMAN CRESPO: Have you ever met  
14 with the NSA, the National Supermarket  
15 Association, around this program?

16 COMMISSIONER REARDON: I have not. I  
17 know they use it.

18 ASSEMBLYMAN CRESPO: Well, I've talked  
19 to them about. I'll give you an example. So  
20 there are a lot of independent stores,  
21 supermarkets, in our community; they tend to  
22 be the places where a lot of young folks get  
23 their first job and first opportunity. And  
24 they grow, they go from baggers to cashiers

1 to --

2 COMMISSIONER REARDON: Managers.

3 ASSEMBLYMAN CRESPO: -- you know,  
4 managers. I've talked to a lot of them, and  
5 they've told me they've found the process  
6 very burdensome, the paperwork that's  
7 required. And I don't know -- given that  
8 that's an actual association with a network,  
9 they could work with those businesses. And  
10 maybe there's an opportunity to facilitate  
11 that so that particularly industries that we  
12 know have a large presence in communities  
13 like ours, that we can facilitate the process  
14 and make sure that they take advantage of  
15 this as well. That's one of the reasons why  
16 we wanted that data --

17 COMMISSIONER REARDON: Right.

18 ASSEMBLYMAN CRESPO: -- who is  
19 actually using the credit from the employer  
20 side as well as who these youth are and where  
21 in the state. I mean, if we could get more  
22 data along those lines, it would help us.

23 COMMISSIONER REARDON: And I'd be  
24 happy to sit down with them.

1 ASSEMBLYMAN CRESPO: Great.

2 I wanted to ask you about wage theft.

3 So you gave the numbers, the overall numbers

4 on how much has been recovered. And I think

5 it was asked already, but I want to be clear.

6 Are there specific industries where this has

7 been more prevailing, in types of services or

8 jobs or employees that -- where this has been

9 a more common occurrence?

10 COMMISSIONER REARDON: Anecdotally, I

11 think probably yes. But I don't want to give

12 you specific examples until I check with the

13 labor standards folks. I can get you that

14 answer.

15 Certainly there are some industries

16 where wage theft is easier. To be candid,

17 whenever you have an immigrant population,

18 they often are less -- they are more reticent

19 to stand up and say someone's not paying me

20 correctly. So that's one place we would

21 look. But it varies.

22 ASSEMBLYMAN CRESPO: Do you also track

23 the civil cases that are brought up by the

24 employees who have been victimized by wage

1 theft?

2 COMMISSIONER REARDON: I believe we  
3 do. And we also work with DAs on certain  
4 kinds of cases when they reach a certain  
5 criminal potential. That's usually on the UI  
6 theft side, not the wage theft, but -- of  
7 course if you pass the bill and make it a  
8 felony to steal wages, we'll be able to work  
9 more closely.

10 (Laughter.)

11 ASSEMBLYMAN CRESPO: I'm sure.

12 And then -- bear with me here. You  
13 know what, let me ask you this. The salary  
14 history ban -- as you know, I carried  
15 legislation in regards to banning that  
16 question in the past. And I saw the  
17 proposal, I'm grateful that it's something  
18 the Governor wants to champion. But the  
19 proposal we had passed in the Legislature  
20 would have provided additional protections.  
21 It would have allowed an employee to bring a  
22 civil action, and it would require DOL to  
23 conduct a public awareness outreach campaign  
24 so applicants would know exactly what to look

1 for and what's not appropriate.

2 But the proposal that I read just  
3 would include the question as a ban for  
4 existing DOL regulations, but it's not as  
5 protective as, let's say, a legislative  
6 approach. Do you have any thoughts on  
7 whether we can do more?

8 COMMISSIONER REARDON: You know, I  
9 always say to these questions I'm very happy  
10 to enforce the laws that you pass.

11 ASSEMBLYMAN CRESPO: Sounds good, I'll  
12 take that. Thank you.

13 CHAIRWOMAN WEINSTEIN: Thank you.  
14 Senate?

15 CHAIRWOMAN KRUEGER: Thank you.  
16 Senate chair of Labor, Senator Ramos.

17 SENATOR RAMOS: Hi, good afternoon,  
18 everybody.

19 Commissioner, thank you so much for  
20 your testimony today. I wanted to ask about  
21 Amazon. Considering the impending deal that  
22 was made without community input or any  
23 consideration for us, what's being done to  
24 ensure that the new headquarters actually

1 hires locally? And considering the  
2 distribution center that's going to be built  
3 in my district, what is being done to ensure  
4 that card-check neutrality is afforded to the  
5 workers, that they have the rights that they  
6 deserve, that they're paid a living wage?

7 Can you talk to me about that?

8 COMMISSIONER REARDON: So the Amazon  
9 deal is definitely an ESD question, not a DOL  
10 question. I really haven't had anything to  
11 do with it.

12 We always want to work with any  
13 employer, particularly a large employer like  
14 Amazon, when they come into New York State,  
15 we want to be as helpful to them as possible.  
16 And we always reach out, send business  
17 services out, find out what kind of workers  
18 they're hiring. You know, if we can find --  
19 the more lead time -- I always tell  
20 employers, the more lead time we have to know  
21 what kind of skill sets you need, the more  
22 time we have to make sure that New Yorkers  
23 are prepared to compete for those jobs.

24 So, you know, I'm sure that we will be



1 in there working with them as closely as  
2 possible on the hiring.

3 Card check and neutrality is really  
4 not something that the Department of Labor  
5 enforces; that's outside of my purview. But  
6 as far as people being paid their wages and  
7 having all of their legal obligations  
8 followed by the employer, we absolutely do  
9 all of that. And any employer who comes into  
10 New York State had better be prepared to  
11 follow all of our laws and regulations.

12 SENATOR RAMOS: I understand there's a  
13 discrepancy when it comes to the payment for  
14 home-care workers, and there's pending  
15 litigation around them working around the  
16 clock but only being able to be paid for 12  
17 or 13 hours, if memory serves me right.

18 From what I understand, that depends  
19 on the interpretation of the Department of  
20 Labor about the Labor Law. Can you tell me  
21 where you are on that?

22 COMMISSIONER REARDON: So on the home  
23 health aides, we proposed regulations to  
24 address these issues.

1           There is currently a case in the Court  
2 of Appeals, and so until that case is  
3 decided, we are not commenting.

4           SENATOR RAMOS: Even though it's --

5           COMMISSIONER REARDON: We are silent  
6 until it goes through the Court of Appeals.

7           SENATOR RAMOS: Okay. I know there  
8 was some discussion before I arrived, and I  
9 apologize, I was in session, that the  
10 Governor -- there was some talk about tipped  
11 workers already. So pardon if there's  
12 somewhat of a repetition here, but he did  
13 announce support for tipped workers in late  
14 December 2017. Then a series of hearings,  
15 six, were launched on the elimination of the  
16 tipped credit last spring. And so obviously  
17 it's been around seven months since those  
18 hearings closed down, and we still have no  
19 decision. Have you made a recommendation to  
20 the Governor regarding elimination of the  
21 tipped credit?

22           COMMISSIONER REARDON: We have not  
23 finished reviewing all the material. I said  
24 earlier we had 40 hours of live testimony

1 that I attended all of. We have over 3,000  
2 written comments, which were enormous. We  
3 are reviewing academic studies that have come  
4 out since we held the hearings. And we're  
5 looking, frankly, at evidence from other  
6 states in the nation. So there's an enormous  
7 amount of information.

8 The other thing about the sub-minimum  
9 wage hearings was that it wasn't simply for  
10 hospitality, it was also the miscellaneous  
11 wage. So it covers a broad range of workers  
12 and industries. And as I said earlier, we  
13 want to make sure we do it right, which may  
14 mean that we don't do it quickly, or as  
15 quickly as people would like us to. But we  
16 don't want to do it wrong and have to go  
17 back.

18 SENATOR RAMOS: So what would the time  
19 frame be?

20 COMMISSIONER REARDON: We are still in  
21 review, and I'm not going to comment on a  
22 calendar.

23 SENATOR RAMOS: Okay. All right.

24 I wanted to also ask about the

1 workforce development programs offered to  
2 NYCHA residents and how these programs are  
3 verified and who's ensuring these programs  
4 are being carried out efficiently and  
5 adequately.

6 COMMISSIONER REARDON: So I'm not  
7 familiar with programs that are specifically  
8 for NYCHA residents, but it might be a city  
9 program rather than a state program. I'd  
10 have to check and see. I know that there are  
11 different -- there are differences between  
12 city and state for some of these things, and  
13 I think NYCHA might be one of them. But I  
14 can find out.

15 SENATOR RAMOS: All right, thank you.  
16 I'd appreciate that.

17 COMMISSIONER REARDON: Sure.

18 SENATOR RAMOS: Thank you, Madam  
19 Chair.

20 CHAIRWOMAN KRUEGER: Thank you.  
21 Assembly.

22 CHAIRWOMAN WEINSTEIN: Assemblyman  
23 Barclay.

24 ASSEMBLYMAN BARCLAY: Thank you,

1 Chairwoman.

2 And good afternoon, Commissioner.

3 I had just one general question about  
4 your testimony where you mentioned the 1.1  
5 million new jobs, private jobs, under this  
6 administration. I live in upstate New York.  
7 We certainly haven't been feeling that  
8 excitement over 1.1 million -- where are  
9 those jobs located?

10 COMMISSIONER REARDON: They're all  
11 over the state. They're not -- I know a lot  
12 of people think, well, they're in New York  
13 City. There are many in New York City,  
14 because there are more people in New York  
15 City. But they literally are all over the  
16 state.

17 And I have spent a fair amount of time  
18 in upstate New York and upstate Western New  
19 York -- I don't know which --

20 ASSEMBLYMAN BARCLAY: Syracuse is  
21 where I'm -- Central New York.

22 COMMISSIONER REARDON: Got it, yes.  
23 And there are a lot. And I understand the  
24 problems that Syracuse, for instance, really

1 struggles with. There's extreme poverty. We  
2 do a lot of work there. And there is a real  
3 focus on making sure that we can connect  
4 workers with good jobs.

5 As I said, the Strikeforce is one of  
6 our tools, but we work very closely with the  
7 elected leaders in Syracuse and making sure  
8 everything that we have in our arsenal is  
9 available to the people in New York State and  
10 specifically in the City of Syracuse.

11 ASSEMBLYMAN BARCLAY: I appreciate  
12 that. I'm not going to belabor the point.  
13 What I'm hearing from our employers in my  
14 area -- I'm actually north of Syracuse, I  
15 don't represent the city itself, but the  
16 suburbs and north -- is, you know, New York  
17 makes it noncompetitive for their businesses  
18 to operate, and as a result either they're  
19 not going to hire more employees or they're  
20 going to consider closing business and  
21 leaving the state. So I think that's a fight  
22 we -- it's not -- this is more just  
23 rhetorical, I don't really have a question in  
24 that. But I'm just expressing some of my

1 frustration with doing business in New York  
2 State.

3 The next one's a little bit more  
4 specific. The call-in pay regulations, when  
5 they came out, there was a lot of concern  
6 about -- we obviously have winter where I am,  
7 we have a lot of snow, seasonal challenges,  
8 particularly for plow companies and whatnot.

9 I understand -- I guess I'm asking,  
10 where do those stand now? I think there was  
11 some amendments to the original proposals and  
12 --

13 COMMISSIONER REARDON: It's been  
14 opened twice. We issued the first set of  
15 regulations for comment. They had a full  
16 comment period. It was very robust. We had  
17 an incredible amount of discussion. And we  
18 did a lot of outreach to specific industries  
19 across the state.

20 We brought them back in, we did a  
21 second set opened to comment, that comment  
22 period ended a couple of weeks ago. So now  
23 we're in the review period.

24 I have to say, we have made -- since

1 I've been at the Department of Labor, we have  
2 made a very -- one of our missions is to  
3 reach out to businesses to make sure that  
4 they're included in these discussions. You  
5 know, I always tell workers and businesses,  
6 you're in a symbiotic relationship. One  
7 cannot live without the other. So we want to  
8 make sure whatever we do on regulations helps  
9 workers be safe and have a good living and  
10 helps employers have a strong access to a  
11 good pipeline of talent.

12 ASSEMBLYMAN BARCLAY: So bringing it  
13 back to the call-in pay, what were the  
14 changes that were made -- the major changes,  
15 I don't have to get every detail on it --  
16 since the first ones were proposed, versus --

17 COMMISSIONER REARDON: I don't have  
18 them right in front of me. I can get that  
19 for you. But they're in review right now.  
20 We hope to have -- you know, be able to issue  
21 them soon, but I don't have a calendar on  
22 that.

23 ASSEMBLYMAN BARCLAY: Okay, thank you,  
24 Commissioner.



1 Thank you, Chairwoman.

2 CHAIRWOMAN KRUEGER: Oh, sorry.

3 Senator Funke.

4 (Laughter.)

5 CHAIRWOMAN WEINSTEIN: I didn't know  
6 who was next, sorry.

7 SENATOR FUNKE: Thank you, Madam  
8 Chair. Thank you, Commissioner, for your  
9 comments. I want to talk about the call-back  
10 scheduling regulations as well and maybe ask  
11 it a somewhat different way than Assemblyman  
12 Barclay did.

13 These issues were raised at a hearing  
14 last year by the snowplow industry, but there  
15 are several other issues which were raised in  
16 the hearing but not addressed. The revised  
17 regulations do not include an exemption for  
18 students working on a part-time basis with  
19 the flexible schedules provided by the car  
20 wash industry, for example. And in fact many  
21 of the students working for one of the  
22 companies submitted letters in support of  
23 that particular exemption. So this  
24 particular issue has been favorably

1 editorialized by the Buffalo Evening News,  
2 among others.

3 Would you explain why an exemption for  
4 students was not included in the recent  
5 revision?

6 COMMISSIONER REARDON: They are not --  
7 they're in review right now, so I'm not going  
8 to comment on what may or may not be in the  
9 final recommendation.

10 SENATOR FUNKE: Okay. And also with  
11 respect to the construction industry, there  
12 seemed to be, I'm being told, lack of clarity  
13 with regard to specific types of activities  
14 that are exempted. The concept of directly  
15 dependent on weather is not explained except  
16 in the case of snow removal. So does this  
17 apply in the case of wind and rain and snow  
18 events to installing a roof, for example, or  
19 pouring concrete, or painting or carpentry or  
20 masonry or any of these things, or people on  
21 scaffolding and ladders when the ground is  
22 soft and could impact the safety of the  
23 workers? And does DOL intend to provide  
24 further guidance so employers aren't left to

1 guess about this?

2 COMMISSIONER REARDON: Well, that's  
3 the reason we had the whole second round of  
4 comments. And as I said, we have done  
5 extensive outreach to many, many, many  
6 different kinds of employers, different  
7 sectors, and we've gotten a tremendous  
8 response from them, which has been very  
9 helpful, frankly.

10 As I said before, these are really  
11 complex issues, and I appreciate your concern  
12 about it. We want to make sure that we get  
13 it right. So, you know, it's in review, and  
14 we'll be able to give you some clarity as  
15 soon as we're ready to issue the  
16 recommendations. But we definitely have  
17 taken all of that into consideration. We got  
18 a lot of comment from those very businesses  
19 that you mentioned.

20 SENATOR FUNKE: And my final question  
21 is, I seem to recall when we went through the  
22 minimum wage legislation and we had an  
23 upstate component and a downstate component,  
24 that there would be an impact study on the

1 minimum wage, an impact on businesses and  
2 employees as well.

3 Is that being conducted, will it be  
4 conducted, and when is it supposed to be  
5 conducted and completed?

6 COMMISSIONER REARDON: So 2019 is the  
7 year that the study is supposed to be  
8 underway. So we are one month in, and we're  
9 gathering the information. This is actually  
10 -- that study is going to be overseen by the  
11 Department of Budget, and the DOL and DOB  
12 will work together on issuing the results.

13 But that is in its infancy, it's one  
14 month in, and we will continue to gather all  
15 that information and compile it.

16 It's an important part of the legislation  
17 that you passed, and I appreciate the spirit in  
18 which it was done.

19 SENATOR FUNKE: Commissioner, thank  
20 you.

21 CHAIRWOMAN KRUEGER: Assembly.

22 CHAIRWOMAN WEINSTEIN: Assemblyman  
23 Bronson.

24 ASSEMBLYMAN BRONSON: Thank you, Madam

1 Chair.

2 Commissioner, always nice to see you.

3 COMMISSIONER REARDON: Thank you.

4 ASSEMBLYMAN BRONSON: I'm going to  
5 start with a conversation we began a few  
6 weeks ago when you were up in Rochester and  
7 participating in the Regional Economic  
8 Development Council's workforce development  
9 workshop. And at that time we were expecting  
10 an announcement regarding the \$175 million  
11 workforce training funding, which we fought  
12 pretty hard to get and the Governor was able  
13 to have it in the budget.

14 Do we know when we're going to get the  
15 parameters of that funding stream out?

16 COMMISSIONER REARDON: Other than  
17 soon, no. But I know that people are working  
18 very hard on it. And like when we were at  
19 the summit together, this happens everywhere  
20 I go, people go, "Where's the money?" And I  
21 don't blame them. It's a very important  
22 question. I'm hoping that that will be  
23 announced fairly soon.

24 ASSEMBLYMAN BRONSON: So we've also

1 been in conversations regarding the Foodlink  
2 -- I'm going to call it a pre-apprenticeship  
3 program. It's not exactly an apprenticeship  
4 program. But, you know, there's a lot of  
5 buzz going about that. The Governor  
6 mentioned it in the State of the State  
7 address. Is that type of program one that  
8 you would anticipate to fall under the \$175  
9 million proposal?

10 COMMISSIONER REARDON: You know, I  
11 would think so, but let me check and make  
12 sure. I don't -- I can't tell you absolutely  
13 sure, but I think so.

14 ASSEMBLYMAN BRONSON: Well, if it's  
15 not -- and actually probably in lieu of doing  
16 it that way, because the program really needs  
17 to get launched and going -- perhaps we could  
18 consider a line item in the budget to cover  
19 -- they're asking for a two-year proposal of  
20 roughly around \$600,000 for each of the two  
21 years. So we should be able to find money  
22 for that.

23 Another thing that we've been working  
24 on for a number of years together, the Empire

1 State Apprenticeship Tax Credit Program.

2 COMMISSIONER REARDON: Yes, thank you.

3 ASSEMBLYMAN BRONSON: I like ESAP

4 better, but the Governor liked Tax Credit

5 Program.

6 So at any rate, I think we're one full

7 year into this. Do we have any numbers of how

8 many employers have participated and if we have a

9 breakdown -- you know, there's two programs. One

10 is for the disconnected youth, 16 to 24 years,

11 with higher tax credit amounts, the other is just

12 someone that you hire in an apprenticeship

13 program.

14 COMMISSIONER REARDON: Right.

15 ASSEMBLYMAN BRONSON: Do we have any

16 numbers on that?

17 COMMISSIONER REARDON: So in 2018 we

18 had 52 programs enrolled, and that was by 34

19 businesses. So business can have more than

20 one apprenticeship program.

21 I don't have the drill-down on the

22 differences between the disadvantaged youth

23 and just the straight apprentice. I can get

24 that for you.

1 ASSEMBLYMAN BRONSON: Okay.

2 COMMISSIONER REARDON: It is a real  
3 benefit. And I just have to say, everywhere  
4 I go, I know my staff looks at me like, when  
5 is she going to stop doing this? But I think  
6 the apprenticeship program is so important  
7 and it is such a wonderful gateway for young  
8 people to get training for a career without  
9 accumulating college debt. It is really  
10 critical.

11 And we are really -- we're focusing,  
12 as you know, the building construction trades  
13 have the majority of these programs, the  
14 majority of the apprentices, and they really  
15 are the gold standard. But we're looking to  
16 expand that outwards to other areas like IT  
17 and healthcare. I'm even talking to the  
18 agricultural community about it. Because we  
19 want to guarantee a pipeline of trained  
20 workers, and apprenticeship is a wonderful  
21 way to do it.

22 ASSEMBLYMAN BRONSON: I agree a  
23 hundred percent. And I would add it also  
24 allows people to earn as they learn, which



1 really helps folks who are coming from  
2 lower-income families.

3 COMMISSIONER REARDON: Yes.

4 ASSEMBLYMAN BRONSON: One last line of  
5 questioning. In connection with public  
6 works, the Governor mentioned in his State of  
7 the State that he was in favor of where we  
8 have private-public partnerships and there  
9 are taxpayer dollars being expended, that  
10 those workers should be receiving prevailing  
11 wage.

12 We know that from peer-reviewed  
13 studies it's clear that there is not a  
14 significant increase in the cost of those  
15 projects. In fact, sometimes there's a lower  
16 cost. You have local workers, local  
17 contractors involved who then contribute to  
18 the community through their spending in our  
19 economy. We also have more transparency and  
20 accountability.

21 My question for you is, do we have any  
22 idea of what the parameters are that the  
23 Governor is going to be proposing when it  
24 comes to the public works? Because there

1 wasn't stuff in the budget regarding it.

2 COMMISSIONER REARDON: I do not have  
3 any of that information. I do know that  
4 there's a bill in the Legislature, and I'm  
5 interested to see how that progresses.

6 Of course I'm very happy to enforce  
7 whatever you make a law.

8 ASSEMBLYMAN BRONSON: Okay. And have  
9 you had any conversations or are you aware  
10 whether the Governor's approach is going to  
11 be a statewide approach or just a New York  
12 City approach?

13 COMMISSIONER REARDON: I don't have --  
14 I haven't had those conversations.

15 ASSEMBLYMAN BRONSON: Okay, thank you,  
16 Commissioner. Appreciate it.

17 CHAIRWOMAN WEINSTEIN: Senate.

18 CHAIRWOMAN KRUEGER: Thank you.

19 Senator Shelley Mayer.

20 SENATOR MAYER: Thank you, Madam  
21 Chair.

22 Commissioner, pleasure to see you.

23 COMMISSIONER REARDON: Thank you.

24 SENATOR MAYER: First question on the

1 New York Youth Jobs program. Do you have a  
2 regional breakdown of where those jobs are?

3 COMMISSIONER REARDON: I don't know.

4 We probably do. I can ask and find out for  
5 you.

6 SENATOR MAYER: That would be helpful.

7 I think you may remember that in Yonkers we  
8 promoted it very extensively, and yet I was  
9 not clear that the number of jobs -- people  
10 that actually stayed -- was very substantial.

11 So it would be useful to see a regional  
12 breakdown.

13 COMMISSIONER REARDON: Okay. Happy to  
14 do it.

15 SENATOR MAYER: And as a follow-up on  
16 this conversation about public work and  
17 prevailing wage, I also was heartened by the  
18 Governor's statement during the State of the  
19 State regarding this, but frankly somewhat  
20 disappointed that there was not language in  
21 the budget about it.

22 So while we are trying to move forward  
23 with Senator Ramos's bill in the Senate and  
24 Assemblyman Bronson's bill, which has a very

1 profound impact in the suburban communities  
2 outside New York City as they continue to  
3 develop basically using nonunion labor and  
4 not paying prevailing wage, what actions is  
5 the department taking to ensure that the  
6 contractors that are on these jobs are paying  
7 people properly, are providing all the safety  
8 equipment that is required, and are taking  
9 every other step that they ought to be?

10 And are you dependent on complaints  
11 being made, or is the department aggressively  
12 monitoring these contractors?

13 COMMISSIONER REARDON: The labor  
14 standards part of this is most reliant on  
15 tips, which we follow up -- \$35 million  
16 returned to over 35,000 workers. So I think  
17 we're doing a decent job at it.

18 The safety components really for the  
19 most part is an OSHA responsibility. So we  
20 do trade information with OSHA when we see  
21 things on a worksite -- you know, there is  
22 that kind of relationship -- but it's not  
23 something that we directly oversee. We do it  
24 for public safety and health, but not

1 private.

2 But, you know, we are -- we've  
3 actually done roundtables around the state  
4 with labor to train them about what kind of  
5 information we need to follow -- to get good  
6 tips on all kinds of enforcement issues. So  
7 we actually go out to our partners and say,  
8 If you see something on a worksite, this is  
9 helpful, this is not. And that has worked a  
10 lot. It's been very, very helpful.

11 SENATOR MAYER: But does the  
12 department engage in random checks of  
13 contractors on these -- where you may have  
14 heard, if not from a tip, that either someone  
15 was injured, someone was paid --

16 COMMISSIONER REARDON: Oh, if someone  
17 is injured, you know, we will follow up. You  
18 know, that kind of thing. But we don't  
19 proactively just walk into, you know, your  
20 average construction site and pull their wage  
21 records.

22 SENATOR MAYER: Although you do have  
23 the authority --

24 COMMISSIONER REARDON: We could.

1 SENATOR MAYER: -- correct?

2 COMMISSIONER REARDON: Mm-hmm.

3 SENATOR MAYER: Okay. Thank you.

4 COMMISSIONER REARDON: Thank you.

5 CHAIRWOMAN KRUEGER: Assembly.

6 CHAIRWOMAN WEINSTEIN: Assemblywoman

7 Cruz.

8 ASSEMBLYWOMAN CRUZ: Commissioner, so  
9 good to see you.

10 COMMISSIONER REARDON: So good to see  
11 you on that side of the table.

12 ASSEMBLYWOMAN CRUZ: Well, one of the  
13 biggest complaints that I often get from  
14 advocates who bring workers forward -- and  
15 back when we were working together, it's one  
16 of the things that we still heard -- was the  
17 difficulty in once the DOL made a finding of  
18 wages owed, of wage theft, of actually  
19 recovering those funds. So one of the things  
20 that we'd love clarity on is, the 35 million  
21 that you mentioned, is it assessed or is it  
22 actually returned to workers?

23 COMMISSIONER REARDON: Returned to  
24 workers.

1 ASSEMBLYWOMAN CRUZ: And how is that  
2 being done now? Because in the past it used  
3 to be assessed, and we would have difficulty  
4 actually enforcing that and getting the  
5 workers to feel like they could trust the  
6 Department of Labor and get the money back.  
7 And that's one of the main reasons why  
8 workers would often opt for other options  
9 other than the Department of Labor.

10 COMMISSIONER REARDON: That is a great  
11 question. Undoubtedly it is sometimes  
12 difficult to collect. Sometimes employers  
13 close their businesses and reappear under  
14 another name. You know, they disappear into  
15 the night. Those bad players are bad across  
16 the spectrum, not just in wages, and we chase  
17 them as much as we can. And you know how  
18 difficult it is. But we are really focused  
19 on making sure we can get that money back.

20 One of the -- you know, oftentimes --  
21 not always, by any stretch of the  
22 imagination, but some of these workers are  
23 undocumented. And so that makes it harder to  
24 find them. We make every effort in every

1 community to make sure that those workers  
2 understand we are not interested in your  
3 documentation, that is not our job. We can't  
4 enforce federal regulations on immigration.  
5 Our job is to make sure that you're protected  
6 under New York State law.

7 And we've made some good progress.  
8 We've been working with the Department of  
9 State on immigrant issues, doing a lot of out  
10 work -- you know, you did a lot of it before  
11 you left us and went to the other side, so  
12 you know what that's like. But it's  
13 really -- the last couple of years have  
14 really been great, and I'm very proud of the  
15 record that we've begun to build working with  
16 immigrant workers.

17 ASSEMBLYWOMAN CRUZ: And speaking of  
18 immigrant workers, what's the Department of  
19 Labor doing to encourage workers to actually  
20 come forward when you have instances of  
21 retaliation that we're often seeing in the  
22 news where workers are being told "If you  
23 come forward, we're going to get you  
24 deported"? Is the anti-retaliation unit



1 still in place --

2 COMMISSIONER REARDON: Oh, very much

3 so.

4 ASSEMBLYWOMAN CRUZ: -- and how is

5 that functioning?

6 COMMISSIONER REARDON: Yes, it is a

7 very active unit. I happily say it's I

8 believe five women who are doing all of this

9 anti-retaliation work at the DOL. I think

10 they've added one man. But they're very good

11 at their jobs, and they take it very

12 seriously.

13 And again, we've worked very closely

14 with the Department of State to make sure

15 that the immigrant community knows that we're

16 here to help and the Governor is interested

17 in making sure that they're protected in this

18 state.

19 So as difficult as the national

20 immigration picture may be, we're working

21 very hard in New York State to make sure that

22 all workers are protected.

23 ASSEMBLYWOMAN CRUZ: And lastly, on

24 farmworkers, what is the average age of a

1 farmworker right now? Because what we often  
2 hear is that if the Farmworker Bill of Rights  
3 were to pass, we'd have a downfall of our  
4 farming industry. So I'm working, what is  
5 the average wage of a farmworker right now?

6 COMMISSIONER REARDON: So  
7 interestingly -- and I think it varies, of  
8 course, from region to region and what kind  
9 of farming you do, whether you're a dairy  
10 farmer or a grower and seasonal and all that  
11 kind of stuff.

12 But the average income for a worker is  
13 actually above minimum wage across the state.  
14 Now, part of that's because many of them use  
15 the H1B visas, and they are paid a higher  
16 wage by contract.

17 The Governor asked us to set up an Ag  
18 Labor Committee, Richard Ball and I did it  
19 three years ago. And remarkably -- it's  
20 working remarkably well. So this was really  
21 the Hatfields and the McCoys. It was the  
22 advocates and the farm owners, and they were  
23 not used to sitting and collectively talking  
24 to each other.

1 Three years later, we have very  
2 productive meetings about a lot of issues  
3 that they have a mutual concern about --  
4 housing, protecting their workers on the  
5 farms from raids, that kind of thing. So we  
6 are really making progress. And it's a great  
7 example of something I deeply believe in, is  
8 even though you may not agree with each  
9 other, come to a table and find the thing in  
10 the middle of the table you can talk about,  
11 and then work to the outside.

12 And it's -- we're making a lot of  
13 progress. And I'm very happy to say that I  
14 think farmworkers are in a better place today  
15 than they were three years ago, thanks to the  
16 Governor.

17 ASSEMBLYWOMAN CRUZ: Thank you,  
18 Commissioner.

19 And just in closing, I'd encourage the  
20 Department of Labor to continue some of the  
21 work we started with the consulates.  
22 Unfortunately, as we see more and more  
23 immigrants removed and returned to their home  
24 countries, we are going to see workers who

1 are going to be owed wages and who are not  
2 going to be able to collect the wages that  
3 they rightfully worked to earn.

4 And so we had started conversations  
5 with the consulates to be able to at least  
6 get them the money that they worked for.

7 Thank you, Commissioner.

8 COMMISSIONER REARDON: And I know that  
9 we've been able to send some checks out of  
10 the country to some of those workers.

11 ASSEMBLYWOMAN CRUZ: Thank you,  
12 Commissioner.

13 CHAIRWOMAN KRUEGER: Thank you.

14 Senator Diane Savino.

15 SENATOR SAVINO: Thank you. Perfect  
16 timing. I got here right on time.

17 Good afternoon, Commissioner.

18 So I want to remind you again I  
19 oftentimes feel guilty about all of the work  
20 that I have saddled your agency with -- the  
21 Wage Theft Prevention Act, misclass in the  
22 construction industry, misclass in the  
23 trucking industry, prompt payment in the  
24 construction industry, and Domestic Workers

1 Bill of Rights.

2 COMMISSIONER REARDON: And I always  
3 tell you we welcome the work, and thank you.

4 SENATOR SAVINO: And I'm happy to see  
5 that the state workforce is growing this year  
6 by about 2300 full-time equivalents. How  
7 many of them are going to be dedicated to  
8 DOL, if you know?

9 COMMISSIONER REARDON: So we have  
10 increased our inspectors recently. And they  
11 do an amazing job. They really are very  
12 dedicated. We're also doing a lot of work in  
13 the agency with digital technology. Because,  
14 you know, we used to be very much a paper  
15 triplicate, you know, kind of business.  
16 We're changing that as rapidly as we can,  
17 because we realize we're all being asked to  
18 do more with less, but IT is really going to  
19 be our savior and we're really making inroads  
20 on that.

21 SENATOR SAVINO: I'm glad to hear  
22 that, because that was going to be one of my  
23 questions, are we able to now utilize  
24 technology in a better way to process some of

1 these claims.

2 With respect to the idea of technology  
3 and how it's going to affect the workforce in  
4 what we all call the gig economy -- which  
5 really is not one single thing, it's a kind  
6 of broader question about how we modernize  
7 the workforce and recognize that the world of  
8 work is changing.

9 And one of the things I'm becoming  
10 increasingly concerned about is that there  
11 are whole sections of the workforce that are  
12 going to disappear. Jobs that will no longer  
13 -- it won't make sense for employers to  
14 maintain them, whether they be clerical jobs,  
15 some jobs in the food service industry.

16 Because it's not just that technology is  
17 replacing people, it's things like artificial  
18 intelligence and even chatbots.

19 So chatbots are basically robots, but  
20 they're digital robots. They can handle call  
21 center jobs, they can handle -- there's a  
22 possibility you could see them doing 911  
23 operator jobs. And these are actual jobs  
24 within government service that have provided

1 a pathway to the middle class for millions of  
2 New Yorkers over the generations. And I'm  
3 concerned that some of those positions will  
4 disappear. And what are we doing to retrain  
5 the workforce going forward for different  
6 types of opportunities? And is DOL thinking  
7 down that road?

8 COMMISSIONER REARDON: We are very  
9 much thinking down that road. I did a  
10 presentation at Rockefeller Institute about a  
11 month ago on AI which was eye-opening for me  
12 to even participate in it.

13 I always say to people, look, do you  
14 want to be the buggy whip maker when the cars  
15 appear on the roads? Some of the buggy whip  
16 makers learned to adapt and started stitching  
17 the leather seat covers for the cars. That's  
18 where we are. I mean, we're not going to  
19 stop technology, technology -- it's not new,  
20 it's new -- this kind is new, but we're here  
21 because of change.

22 So we are very aware that we have to  
23 be ready to retool people. There's an  
24 important concept that we're talking a lot

1 about now, which is lifelong learning. It  
2 used to be that you could go to college --  
3 well, first of all, you'd go to high school  
4 and get your diploma and go to work and have  
5 a good job. Now you have to have some kind  
6 of postsecondary training, whether it's an  
7 apprenticeship, on-the-job training, a  
8 four-year college, whatever it is.

9       And the big thing with the AI  
10 revolution is that we all have to expect to  
11 continue learning through our careers,  
12 because our jobs are going to change. And we  
13 have to be ready to change with them. Part  
14 of that means that our population needs to  
15 expect to go back for refreshers, for  
16 retraining, for differences in their  
17 employment. Employers need to think about  
18 how do they invest in their workforce so that  
19 they're not leaving behind the very valuable  
20 people that have helped them establish their  
21 business because they're beginning to lose  
22 those skills. That's why I always love  
23 apprenticeship, because that's an investment  
24 in workers from the very beginning.



1 But it's a concept that we as a  
2 culture and a society really have to engage  
3 in and engage in a very early place, that  
4 lifelong learning is going to be what we have  
5 to do, as machines learn to do some of the  
6 dull, repetitive work that humans do now. If  
7 we had AI coming into the Department of  
8 Labor, we wouldn't fire people, we'd happily  
9 go, ah, your job has been automated, so we  
10 can actually use you over here to do a more  
11 skilled job. And that's the kind of thinking  
12 that people have to have.

13 SENATOR SAVINO: I'm very happy to  
14 hear that you're thinking that way, and I  
15 look forward to working with you on some of  
16 these issues. Because as I've said many  
17 times, the world of work is changing. We're  
18 either going to change with it or we'll be  
19 left behind.

20 COMMISSIONER REARDON: Yup.

21 SENATOR SAVINO: Thank you.

22 COMMISSIONER REARDON: Thank you.

23 CHAIRWOMAN KRUEGER: Thank you.

24 Assembly.

1 CHAIRWOMAN WEINSTEIN: Yes, we go to  
2 Assemblyman Mosley, chair of the Commission  
3 on Skills Development.

4 ASSEMBLYMAN MOSLEY: Thank you, Madam  
5 Chair. Thank you, Commissioner, for being  
6 here.

7 (Calls of "mic.")

8 ASSEMBLYMAN MOSLEY: Oh, I'm sorry, I  
9 apologize. Thank you, Madam Chair.

10 Commissioner, thank you for your  
11 testimony and for your questions. I'll be  
12 brief, because I only have one question.

13 But first I want to thank you for the  
14 increase in the Executive Budget,  
15 \$27.3 million for the Workforce Investment  
16 Act, which the total increase is a little  
17 over \$36 million for the federal Workforce  
18 Innovation and Opportunity Act, which I  
19 really approve.

20 The one thing I just want to talk  
21 about is the elimination of a couple of  
22 things that historically the Assembly has  
23 added back in its one-house and eventually  
24 making it into the final budget: The close

1 to a million dollars to county chambers of  
2 commerce for on-the-job training funding, as  
3 well as the \$1.6 million elimination, the  
4 million dollars in displaced homemaker  
5 funding under the Department of Labor.

6 I just want to find out what was the  
7 rationale behind those cuts and whether or  
8 not we're making up for something else or  
9 taking those resources and using it  
10 elsewhere. Or do we just find that the  
11 executive branch feels that these two items  
12 are obsolete going forward?

13 COMMISSIONER REARDON: I don't  
14 actually know the answer to that. I'll have  
15 to get you a better answer. We don't do that  
16 part of the budget. But I can definitely get  
17 you an answer, particularly on the displaced  
18 homemakers.

19 ASSEMBLYMAN MOSLEY: Okay. So can I  
20 just set up a time with your staff --

21 COMMISSIONER REARDON: Sure.  
22 Absolutely.

23 ASSEMBLYMAN MOSLEY: All right. Thank  
24 you.

1 CHAIRWOMAN KRUEGER: Senator Ramos,  
2 second round.

3 SENATOR RAMOS: Hello. Last year an  
4 investment of \$175 million was announced for  
5 workforce development, but it's unclear how  
6 those funds were or will be allocated.

7 What's the status of the funding? Has some  
8 of the funding already been earmarked for  
9 previously announced initiatives? When can  
10 we expect this funding to hit the streets?  
11 Will the funding be only available through  
12 the state's CFA?

13 COMMISSIONER REARDON: So working  
14 backwards, as I understand it, we're not  
15 overseeing the Workforce Development Office.  
16 We're a big part of it, but there will be  
17 separate administration of that. And some of  
18 that money comes directly from the Department  
19 of Labor, but we only have \$20 million in the  
20 \$175 million. Other money comes from other  
21 areas. I think SUNY and CUNY have a large  
22 part of that funding.

23 It will be done through an expanded  
24 CFA. And it has not been -- the CFA process

1 has not been invoked yet for that money, but  
2 I expect an announcement fairly soon. And it  
3 will be for training programs.

4 The idea, as I understand it, behind  
5 the Workforce Development Office is to be  
6 able to align the priorities of the Regional  
7 Economic Development Councils so when they do  
8 workforce training programs, you know, if you  
9 need welders in Central New York, you want to  
10 make sure that the training providers are  
11 there to provide that pipeline. And that has  
12 not always happened. It's not always that  
13 clear. Because there are a lot of different  
14 training programs across the state, across  
15 the state agencies. This is a way to align  
16 those priorities and make sure that people  
17 know where to go to get questions answered.

18 And then the money will be coming out  
19 from that office. So I look forward to  
20 working with them. It's an exciting idea.

21 SENATOR RAMOS: All right, thank you.

22 I also wanted to ask about the Census  
23 and whether you're concerned that the efforts  
24 to reduce an accurate count will negatively

1 impact on the New York State Data Center.

2 How do you feel about that?

3 COMMISSIONER REARDON: So I'm very  
4 happy to say that I was just announced to be  
5 part of the commission, so I'm looking  
6 forward to working on that. Part of the  
7 Census, as you know, the Data Center is in  
8 the Department of Labor, so we're already  
9 beginning preparation.

10 We are always concerned that the  
11 Census be done appropriately and get the kind  
12 of information that not just New York State  
13 but all states require to function as they  
14 should. But we take the Census very  
15 seriously, and I'm looking forward to the  
16 work on the commission, because every  
17 New Yorker must be counted.

18 SENATOR RAMOS: I agree. I agree.

19 Sort of along those lines of  
20 diversity, I wanted to ask about affirmative  
21 action and Executive Order 187. And I wanted  
22 to ask how -- it required the CDO and the  
23 commissioner for Civil Service to prepare  
24 statewide objectives for the employment of

1 minorities, women, LGBT, disabled people and  
2 veterans.

3 This report was due December 31st.  
4 Are there copies of that report available for  
5 distribution?

6 COMMISSIONER REARDON: I believe  
7 that's a report that's actually coming out of  
8 Civil Service. I don't think it's coming out  
9 of us.

10 SENATOR RAMOS: Okay. All right,  
11 Thank you.

12 COMMISSIONER REARDON: Thank you.

13 CHAIRWOMAN KRUEGER: Thank you.  
14 Senate I believe is done.

15 CHAIRWOMAN WEINSTEIN: Commissioner, I  
16 have a quick question.

17 I was wondering if you could provide  
18 us with a status update on the Pay for  
19 Success program. And what kind of outcomes  
20 have we seen so far?

21 COMMISSIONER REARDON: So Pay for  
22 Success is a way to support formerly  
23 incarcerated people coming out of serving  
24 their time. And I don't have the exact

1 numbers in my prep material here, but it  
2 is -- you know, it has been a very useful  
3 tool, and we continue to use it.

4 There are a number of efforts to help  
5 people coming out of incarceration, help them  
6 return to a productive life in their  
7 community, and that's one of them. It's a  
8 good tool.

9 CHAIRWOMAN WEINSTEIN: Great. So  
10 that's it for me.

11 But we're going to move for a second  
12 round to Assemblyman Crespo.

13 ASSEMBLYMAN CRESPO: Sexual  
14 harassment. I know that last year we enacted  
15 new mandates on businesses to provide  
16 training. And as you know, we'll be  
17 conducting a hearing with the Senate and  
18 Assembly on the 13th. Hope to be able to  
19 speak to you then as well.

20 But what has happened since the  
21 enactment of the legislation? How have  
22 businesses across the state been informed of  
23 the new regulations? How does it work in  
24 terms of access to the actual trainings for



1 the employer to provide? And particularly  
2 I'm concerned about smaller businesses in  
3 communities like mine, especially when  
4 there's a language barrier already for the  
5 small mom-and-pop -- you know, the  
6 cosmetologist who knows how to do hair but  
7 not necessarily an expert at running a  
8 business, nor do they have personnel or HR  
9 departments.

10 So how are you reaching them, and how  
11 do they know what the regulations are to  
12 prevent --

13 COMMISSIONER REARDON: It's a great  
14 question. So we did a lot of work on the  
15 sexual harassment training. There's a whole  
16 toolkit for employers. It includes FAQs,  
17 there's a video done by a wonderful person  
18 about sexual harassment. And it's a video  
19 that can be used straight out of the box. If  
20 you are an employer, if you're the  
21 cosmetician who doesn't know much about it,  
22 you can use this video to train your  
23 employees, you don't have to change anything  
24 in it, it's free.

1           So the state focused on making sure  
2           that the toolkit was available. I believe  
3           it's in English and Spanish -- I'll have to  
4           check, but I'm pretty sure we have it also in  
5           Spanish. And there's supporting documents.

6           I have heard in the past a lot of  
7           particularly larger businesses would hire an  
8           outside firm to conduct their sexual  
9           harassment training. That's very expensive.  
10          We want to make sure that businesses don't  
11          have to incur that kind of cost.

12          You can use the video, you can use it  
13          as is, you can tailor it to your kind of  
14          work. If you want to put in some extra  
15          things because you work in the hospitality  
16          industry and the examples are more towards  
17          your industry, you're certainly able to do  
18          that. There's a lot of different ways to  
19          deliver it. The main thing is it has to be  
20          some kind of interaction so that the employee  
21          is not trained passively, so that they are  
22          actually engaged in the training.

23          But you can do it on video, you can do  
24          it in person. We are available across the

1 state to work with employers on this. Again,  
2 our business services people carry that  
3 information when they go out to businesses.  
4 And we have some information in our 96 Career  
5 Centers.

6 The main thing is we want to make it  
7 affordable for employers and accessible for  
8 employees. And one of the things that I've  
9 heard repeatedly around the state from  
10 business owners was thank you. Because they  
11 are liable to be sued if they don't follow  
12 the law or some person is harassed in their  
13 employment.

14 So this is actually protective on both  
15 sides. The employee is protected from  
16 harassment, and the employer is protected  
17 from a lawsuit. So it's good for everybody.

18 And in the current climate, when  
19 everybody is so aware of this, we're really  
20 glad to be able to offer this. It's on our  
21 website. It's downloadable. And most  
22 important, it's free.

23 ASSEMBLYMAN CRESPO: So is there an  
24 effort to expand the number of languages that

1 it's available in?

2 COMMISSIONER REARDON: I'd have to  
3 check. I know that we've -- probably. I  
4 mean, we have a language accessible mandate  
5 in the state, so we can certainly do that.

6 ASSEMBLYMAN CRESPO: And just so that  
7 I'm clear, the small stores, the  
8 mom-and-pops, those smaller employers, they  
9 would have received what, a letter from the  
10 Department of Labor, from another agency?  
11 How do they even know that this is --

12 COMMISSIONER REARDON: I'm not -- I  
13 don't know the agency-to-business touch per  
14 business, but I can find out for you. But  
15 there's been a lot of public discussion about  
16 what's available. You can always do more, of  
17 course.

18 ASSEMBLYMAN CRESPO: Well, we want to  
19 help fill the gaps at least locally in our  
20 own respective communities.

21 COMMISSIONER REARDON: And if there's  
22 more that we can do, please recommend it to  
23 us.

24 ASSEMBLYMAN CRESPO: Thank you.

1 CHAIRWOMAN KRUEGER: I was wrong when  
2 I said the Senate closed.

3 Jamaal Bailey.

4 SENATOR BAILEY: It's always good to  
5 be late and put on the spot like that. Thank  
6 you, Liz.

7 (Laughter.)

8 SENATOR BAILEY: I apologize for my  
9 lateness.

10 COMMISSIONER REARDON: In under the  
11 wire.

12 SENATOR BAILEY: Well, yes. It will  
13 be very quick. I only had one question for  
14 you, Commissioner. Thank you for coming  
15 today.

16 I am a huge proponent of worker-owned  
17 businesses, worker co-ops. And I just wanted  
18 to know, do you or the Department of Labor --  
19 I know it's not necessarily a budgetary  
20 issue, but I just wanted to ask your opinion.

21 What are your beliefs about worker co-ops?

22 Do you see them as a viable -- something  
23 viable in the State of New York?

24 Because I'm looking to partner with

1 you and my colleagues in government to make  
2 sure that we can expand worker co-ops and the  
3 economic benefits, greater governance,  
4 greater wages, more progressive governance  
5 style. And I just wanted to ask you your  
6 opinion on co-ops.

7 COMMISSIONER REARDON: I would  
8 certainly welcome that conversation. We have  
9 had conversations with other interested  
10 people. I know that -- I think it's the  
11 Workers Institute at Cornell has a program on  
12 co-ops.

13 So, you know, we'd be happy to sit  
14 down and talk with you about it, and  
15 certainly direct you to any of the programs I  
16 know that are working in that area.

17 SENATOR BAILEY: Certainly. There are  
18 a number of organizations who are doing this  
19 throughout the state. Myself and other  
20 members of this -- actually on the panel,  
21 Assemblyman Mosley was with me. We went to  
22 Spain, to Mondragon, where we studied a  
23 worker cooperative ecosystem and how  
24 ecosystems, economic ecosystems can benefit

1 regions and towns from small-scale to  
2 large-scale.

3 So it's just something that I'm very  
4 passionate about. I wanted to just flag it  
5 for you, just hopeful that we can have  
6 further discussions on it.

7 COMMISSIONER REARDON: I would love  
8 to.

9 SENATOR BAILEY: Thank you,  
10 Commissioner. Nothing further.

11 CHAIRWOMAN KRUEGER: Thank you.

12 I think that's it. Thank you very  
13 much, Commissioner Reardon.

14 COMMISSIONER REARDON: Thank you very  
15 much.

16 CHAIRWOMAN KRUEGER: Thank you. And  
17 our next testifier will be Acting  
18 Commissioner Lola Brabham of the New York  
19 State Department of Civil Service.

20 Good afternoon.

21 ACTING COMMISSIONER BRABHAM: Good  
22 afternoon.

23 Good afternoon, Chairs Krueger,  
24 Weinstein and distinguished members of the

1 Senate Finance and Assembly Ways and Means  
2 Committees. My name is Lola Brabham, and it  
3 is my privilege to serve as the acting  
4 commissioner for the Department of Civil  
5 Service.

6 I appreciate the opportunity to appear  
7 before you today to comment on Governor  
8 Cuomo's Executive Budget for fiscal year 2020  
9 as it relates to the Department of Civil  
10 Service, and to share some of the  
11 department's key accomplishments over the  
12 past year.

13 As the central personnel arm for  
14 New York State, the department is charged  
15 with providing critical HR services and  
16 support to state agencies, helping them meet  
17 their strategic workforce needs and carry out  
18 their respective missions. In 2018, the  
19 department made significant progress to  
20 improve our programs and services, including  
21 modernizing our approach to testing,  
22 strengthening diversity and inclusion in the  
23 workplace, and implementing workforce  
24 development strategies to hire and retain the



1 best and brightest to work for the State of  
2 New York.

3 In 2018, the department worked closely  
4 with the Office of Information Technology  
5 Services on a joint initiative to modernize  
6 the state's approach to test delivery and  
7 enable greater use of computerized testing.  
8 By summer 2019, civil service exams will be  
9 created and scored in a new system, which  
10 will reduce the amount of time it takes to  
11 build and score tests and ensure that the  
12 department can be more responsive to the  
13 hiring needs of state agencies and local  
14 governments.

15 The department recently launched the  
16 Civil Service Institute, a new training  
17 program for state and local HR professionals  
18 that covers all aspects of civil service  
19 administration. The institute will ensure  
20 that all HR professionals have a solid  
21 understanding of civil service  
22 administration, so that we improve the  
23 consistency and quality of HR management  
24 across New York State.

1           At the same time, new training  
2 opportunities are being offered to state  
3 employees via the institute to enhance their  
4 knowledge and awareness of career mobility  
5 opportunities. By engaging employees at all  
6 levels, the department is providing both  
7 state and local agencies with yet another  
8 tool for workforce development.

9           In response to legislation signed by  
10 Governor Cuomo, the department has undertaken  
11 efforts to analyze data and develop a  
12 comprehensive report detailing flexible and  
13 alternative work schedules currently in place  
14 at state agencies. This report builds upon  
15 Governor Cuomo's ongoing legacy for pursuing  
16 equality and flexibility in the workplace and  
17 complements the department's efforts to  
18 improve work-life balance for all state  
19 employees.

20           Under Governor Cuomo's leadership, the  
21 department is strengthening diversity and  
22 equal opportunity across state government.  
23 In August 2018, Governor Cuomo signed  
24 Executive Order 187, which established the

1 Office of Diversity Management within the  
2 department to support statewide diversity and  
3 inclusion practices, policies, and programs  
4 throughout state agencies.

5 Further, the executive order created a  
6 new Executive Committee for Diversity and  
7 Inclusion to advise the governor, the chief  
8 diversity officer, and the commissioner of  
9 Civil Service in overseeing the effective  
10 implementation of these initiatives.

11 These actions complement a series of  
12 initiatives already underway, from expanding  
13 testing venues to the establishment of new  
14 diversity and inclusion training, to  
15 cultivate a more inclusive work environment  
16 for all employees.

17 To ensure that state agencies adhere  
18 to consistent workforce management practices  
19 and collaborate to establish an HR community  
20 of practice, an Agency Deputy for  
21 Administration Policy Team, or ADAPT, was  
22 recently established. Deputy commissioners  
23 for administration across state government  
24 are now participating in HR program and

1 policy meetings led by the department and the  
2 New York State Personnel Council to share  
3 best practices on topics including workforce  
4 development, succession planning,  
5 telecommuting, and the statewide mentoring  
6 program, among others.

7 To attract new talent to the state  
8 workforce, the department is pleased to offer  
9 the Professional Career Opportunities exam in  
10 early 2019. By providing a single mechanism  
11 for college graduates to compete for over 100  
12 entry-level professional positions across  
13 state government, the PCO exam ensures that  
14 agencies have a diverse and qualified  
15 pipeline of talent available to meet their  
16 hiring needs.

17 In the health benefits arena, the  
18 department is focused on efficiently  
19 administering the New York State Health  
20 Insurance Program through seven discrete  
21 employee benefit programs available under  
22 statute or through collective bargaining. The  
23 department remains committed to providing  
24 affordable healthcare to over 1.2 million

1 state and local government employees,  
2 retirees, and their families enrolled in  
3 NYSHIP, while protecting taxpayers through  
4 cost-effective management.

5 We also continue to collaborate with  
6 the Governor's Office of Employee Relations,  
7 the Workers Compensation Board, and other  
8 partner agencies to deliver the nation's  
9 strongest and most comprehensive paid family  
10 leave policy to our management/confidential  
11 employees. We look forward to expanding this  
12 benefit to other state employees in 2019, as  
13 state employee unions ratify agreements to  
14 provide paid family leave to their members.

15 As you can see, the department is  
16 improving workforce efficiencies, planning  
17 strategically for the future, and  
18 collaborating with our partner agencies to  
19 improve services for all New Yorkers. Thank  
20 you for the opportunity to appear before you  
21 today, and I'm happy to answer any questions  
22 you may have at this time.

23 CHAIRWOMAN KRUEGER: Thank you. Thank  
24 you very much for your testimony today.

1           And I just have a quick question. So  
2           you're acting. Are you expected to become  
3           confirmed, is that a plan or a goal?

4           ACTING COMMISSIONER BRABHAM: I have  
5           been nominated by the Governor for  
6           confirmation, and I await that opportunity.

7           CHAIRWOMAN KRUEGER: Thank you.

8           And our first testifier will be the  
9           Senator for Civil Service and --

10          SENATOR GOUNARDES: -- Pensions.

11          CHAIRWOMAN KRUEGER: Thank you, Andrew  
12          Gounardes. And I don't believe I introduced  
13          him by name when he walked in earlier --

14          SENATOR GOUNARDES: That's okay.

15          CHAIRWOMAN KRUEGER: -- so I wanted to  
16          make sure I got the full title out this time.

17          SENATOR GOUNARDES: Thank you very  
18          much.

19          Thank you, Commissioner, and  
20          congratulations on your nomination.

21          I have a bunch of questions. First I  
22          want to focus on health insurance. And the  
23          Governor's prepared budget establishes a  
24          contribution rate for employees who are hired

1 after April 1st of this year, but part A of  
2 the budget but does not address anything  
3 about current retirees. So I have two kind  
4 of quick questions for you.

5 Number one, the Civil Service  
6 Commission sets the state's compensation rate  
7 for retirees for their health insurance. How  
8 do we determine that contribution rate? What  
9 are the factors that go into that?

10 ACTING COMMISSIONER BRABHAM: Retirees  
11 don't have a different contribution rate, if  
12 you're referring to the premiums.

13 So there are three different proposals  
14 in the budget that deal -- potentially could  
15 deal with retirees. So I'm not sure if  
16 you're referring to the Article VII on the  
17 sliding scale proposal, in terms of the value  
18 of the retiree health insurance when someone  
19 has retired. So if that's what you're  
20 referring to --

21 SENATOR GOUNARDES: Yes, I'm sorry.

22 ACTING COMMISSIONER BRABHAM: -- we'll  
23 start with that.

24 SENATOR GOUNARDES: It's my first

1 go-round here, so I'm learning the lingo and  
2 terminology. So bear with me. But yes,  
3 yeah.

4 ACTING COMMISSIONER BRABHAM: No  
5 problem. No problem at all.

6 So that proposal essentially puts  
7 retiree health insurance on par with a  
8 pension. So right now the longer you work in  
9 state government and the greater number of  
10 years you have in service, the greater your  
11 pension. So this proposal would put health  
12 insurance along those same lines. The longer  
13 a person works, the more valuable their  
14 health insurance benefit would be when they  
15 retire.

16 SENATOR GOUNARDES: Thank you.

17 And my reading of the proposal, the  
18 Governor's proposal, is that employees who  
19 retire with a disability retirement are  
20 excluded from that as well?

21 ACTING COMMISSIONER BRABHAM: That's  
22 correct.

23 SENATOR GOUNARDES: So what factors go  
24 into calculating the rate for those



1 individuals? How does that get factored  
2 together?

3 ACTING COMMISSIONER BRABHAM: Well,  
4 individuals who retire with a disability  
5 benefit aren't working the full 30 years, so  
6 they're exempted from this proposal because  
7 they have a disability and they would be  
8 retiring at 25 years.

9 SENATOR GOUNARDES: Okay. But there  
10 is nothing to kind of provide them coverage  
11 even despite their disability, just ongoing  
12 health insurance coverage, I guess is the  
13 point of the question I'm trying to get to.

14 ACTING COMMISSIONER BRABHAM: They  
15 would be provided coverage as long as they  
16 meet all of the other eligibility factors for  
17 retiree coverage under the health insurance  
18 program.

19 SENATOR GOUNARDES: Okay, thank you.

20 I want to transition to talking about  
21 provisional and temporary employees. I know  
22 this has been a topic that's come up a few  
23 years in a row.

24 And I guess my first question is how

1 many provisional employees are currently  
2 employed by the state? And how long have  
3 these employees held these provisional  
4 appointments for?

5 ACTING COMMISSIONER BRABHAM: So there  
6 are -- I think there are probably about 1300  
7 provisional appointments right now.

8 SENATOR GOUNARDES: And the general  
9 length of those appointments?

10 ACTING COMMISSIONER BRABHAM: Those  
11 appointments are as long as there is no  
12 existing eligible list for an individual to  
13 be appointed from.

14 So there are some times when an agency  
15 has a need to hire someone, the test hasn't  
16 been given yet. They are allowed to appoint  
17 an individual provisionally until the test is  
18 held. When the test is held, the person must  
19 take the test. And when the results of the  
20 test come out and the eligible list is  
21 established, the individual who was appointed  
22 provisionally would have had to have scored  
23 high enough to be reachable on the list in  
24 order to keep the job. And if they are not,

1 then they are no longer in the job and  
2 someone who scored higher on the list would  
3 be appointed.

4 SENATOR GOUNARDES: And so I guess the  
5 concern is that we are not -- we're filling  
6 positions in a noncompetitive manner overall.  
7 So the question or I guess the heart of the  
8 matter is, what are we doing to ensure that  
9 those provisional or temporary placements are  
10 as short-lived as possible so we can actually  
11 move towards filling those positions with  
12 competitive exam-based placements?

13 ACTING COMMISSIONER BRABHAM: Just a  
14 point of clarification on the provisional  
15 appointments. In order to be appointed  
16 provisionally, you have to be in the  
17 candidate field for that appointment.

18 So in other words, if I'm working in a  
19 job, I know that when I take the promotion  
20 exam I would be able to be promoted to the  
21 Grade 23 or the Grade 25, which means that  
22 I'm already holding a competitive  
23 appointment, and that is part of what makes  
24 me eligible for a provisional appointment.

1           And then to the second part of your  
2 question about the length of time, I -- you  
3 know, and I think that varies. But for the  
4 most part, we work with agencies -- that's  
5 one of the things that we pay attention to  
6 when we're deciding which exams to hold and  
7 what are the priority exams.

8           One of the first things that we do  
9 look at when agencies give us their exam  
10 request is we look at where there are  
11 provisional appointments and where people are  
12 serving provisionally, and we try to hold  
13 those exams because we don't want the  
14 employee or the agency to be in limbo status  
15 with the provisional appointment. And so we  
16 try to make sure that we hold those tests on  
17 a priority basis so that appointments can be  
18 made.

19           SENATOR GOUNARDES: Okay. Thank you  
20 for that.

21           And, you know, kind of the last  
22 question I guess I have for right now is in  
23 talking to people and kind of wrapping my  
24 head around a lot of these issues that are

1 now coming before my committee, there are  
2 tiles, you know, numerous titles in  
3 noncompetitive classes that would seem to not  
4 be policy-making titles, they seem to be more  
5 analysts, accountants, auditors, specialists,  
6 IT specialists, things like that.

7 Why are these things being classified  
8 as noncompetitive? Can you just shed some  
9 light on that for me?

10 ACTING COMMISSIONER BRABHAM: Sure.  
11 Just as a point of clarification, a position  
12 need not be policy-making to be classified as  
13 noncompetitive.

14 And secondarily, the noncompetitive  
15 status is something that is provided for in  
16 Civil Service Law. So it's another workforce  
17 management tool that is available to us under  
18 the law.

19 SENATOR GOUNARDES: Okay. That's all  
20 I have for now. Thank you.

21 ACTING COMMISSIONER BRABHAM: Thank  
22 you.

23 CHAIRWOMAN KRUEGER: Thank you.  
24 Assembly.

1 CHAIRWOMAN WEINSTEIN: Assemblyman  
2 Peter Abbate, chair of Governmental  
3 Employees.

4 ASSEMBLYMAN ABBATE: Thank you,  
5 Helene.

6 I noticed that the Governor has some  
7 oldies but not goodies in this year's budget  
8 once again, so I won't go over those. Just  
9 one or two questions on some of the things  
10 that have been proposed that I try to get  
11 some clarification on.

12 ACTING COMMISSIONER BRABHAM: Sure.

13 ASSEMBLYMAN ABBATE: Proposing  
14 language to allow the Department of Civil  
15 Service to establish continuous eligibility  
16 lists so you won't have to give an  
17 examination?

18 ACTING COMMISSIONER BRABHAM: No, sir.

19 ASSEMBLYMAN ABBATE: No? What's --

20 ACTING COMMISSIONER BRABHAM: That  
21 proposal --

22 ASSEMBLYMAN ABBATE: That's Part LL?

23 ACTING COMMISSIONER BRABHAM: Yes,  
24 you're referring to the Article VII bill that

1 would expand the use of continuous  
2 recruitment. And that is by examination. So  
3 that would actually afford -- right now, the  
4 only time we can hold a continuous  
5 recruitment exam is when there are not enough  
6 individuals on an eligible list to fill a  
7 job. One of the things that agencies  
8 continually ask for is the ability to hold  
9 tests more often and on a continuous basis.

10 ASSEMBLYMAN ABBATE: That's the  
11 question I was getting to, exactly.

12 ACTING COMMISSIONER BRABHAM: So for  
13 example, like the Department of Corrections.  
14 They really go through their eligible list  
15 very quickly, and they'd like to have the  
16 opportunity to hold it on a open -- a open --  
17 I'm sorry, I got off track for a second  
18 there -- on a continuous recruitment basis to  
19 make sure that they always have enough  
20 candidates in the pipeline to appoint to  
21 positions.

22 ASSEMBLYMAN ABBATE: So there would  
23 still be an exam given.

24 ACTING COMMISSIONER BRABHAM: Yes.

1 Yes.

2 ASSEMBLYMAN ABBATE: Okay. And the  
3 other one is what the Governor calls, in the  
4 Article VII, the Safety Protection for  
5 Existing Public Employees, where if an  
6 employee was transferred from one position to  
7 another, their salary remained the same.  
8 Could you give me an example what he's trying  
9 to do with that?

10 ACTING COMMISSIONER BRABHAM: Sure.  
11 That salary protection has to do with when a  
12 position is reclassified or reallocated, it  
13 is sometimes the case that, you know, a grade  
14 that maybe was a Grade 15 could be  
15 reallocated to a Grade 12. When that  
16 happens, any individual serving in that  
17 position is held harmless so that their  
18 salary is not reduced. As long as they stay  
19 in that particular position.

20 However, if that individual were to  
21 take a lateral assignment either within their  
22 own agency or at another agency, their salary  
23 would be reduced.

24 So the idea here is that the



1 individual be given salary protection  
2 regardless of whether or not they stay in  
3 that particular position or whether they take  
4 a -- make a lateral move and go into another  
5 position at the same grade level at that  
6 agency or any other agency.

7 ASSEMBLYMAN ABBATE: It has to be at  
8 the same grade level? Because the way it's  
9 worded, it can mean like someone can come  
10 from IT or someone can come from the State  
11 University at a very high salary, get a  
12 provision -- get a temporary spot in the  
13 Governor's office or in the Senate, and  
14 maintain that high salary.

15 ACTING COMMISSIONER BRABHAM: No, sir,  
16 that would be incorrect. It has to do with  
17 the competitive --

18 ASSEMBLYMAN ABBATE: That's not the  
19 way it's worded.

20 ACTING COMMISSIONER BRABHAM: Okay.  
21 Well, I'm clarifying for you that it has to  
22 do with the competitive service and it has to  
23 do with when a position within the  
24 competitive service has been reallocated and

1 the grade level has changed.

2 ASSEMBLYMAN ABBATE: So in other  
3 words, if someone, you know, before the  
4 salary adjustments were made, if someone was  
5 working at a previous job and then became a  
6 commissioner -- where some remained acting  
7 commissioners because their salary was higher  
8 as acting than lower, under this proposal,  
9 they could have kept the higher salary.

10 ACTING COMMISSIONER BRABHAM: No, sir.  
11 What you're referring to is, you know,  
12 commissioners and people who work in the  
13 Senate are all part of the unclassified  
14 service. And this provision would not cover  
15 those individuals. This position covers  
16 competitive positions in the instance where  
17 my department, and specifically the office of  
18 Classification and Compensation, has taken a  
19 look at the position, as we sometimes do,  
20 with an eye towards equal pay for equal work.

21 So when we take a look at positions  
22 and we analyze them, if we see that there are  
23 a number of positions that do similar work  
24 across state agencies that are at a

1 particular grade level, that tells us that  
2 something has gotten out of whack and it  
3 needs to be adjusted, and the salary is  
4 adjusted. However, the individuals serving  
5 in those positions are not penalized by that  
6 by having their salary reduced.

7 ASSEMBLYMAN ABBATE: No, I'm in full  
8 agreement that the salary shouldn't be  
9 reduced at all. Just looking at what's  
10 proposed in the Governor's budget raises some  
11 flags. Thank you.

12 ACTING COMMISSIONER BRABHAM: Thank  
13 you.

14 CHAIRWOMAN KRUEGER: Thank you.

15 Senator Seward.

16 SENATOR SEWARD: Thank you, Acting  
17 Commissioner, and hopefully soon to be  
18 Commissioner.

19 I have some questions. I went looking  
20 for further clarification on a couple of  
21 issues that have already been raised here  
22 tonight, and that is the differential in  
23 retiree healthcare premiums. You know, the  
24 Executive Budget proposes that sliding-scale

1 reimbursement for post-retirement healthcare  
2 costs.

3 And employees have had to contribute  
4 more to their healthcare costs over the last  
5 several years because the Executive has the  
6 administrative authority to increase the  
7 cost-sharing. And my question is, if this  
8 proposal in terms of the sliding-scale  
9 reimbursement is not enacted -- or even if it  
10 is, either way -- do you foresee any  
11 increased cost-sharing for health insurance  
12 for retirees or active employees?

13 ACTING COMMISSIONER BRABHAM: So as a  
14 point of clarification, the reason why these  
15 and other proposals are, you know, in the  
16 budget is not simply because, you know, we  
17 kind of have the administrative power to do  
18 it. It's because the cost of health  
19 insurance continues to rise year after year  
20 and we look for tools at our disposal to help  
21 rein in those costs.

22 To the second part of your question,  
23 if the proposal was enacted would there be  
24 some increase to, potentially, the cost of

1 health insurance for people who don't work  
2 for 30 years and obtain full retirement, the  
3 answer would be yes. There would be --  
4 that's not something for right now. Because  
5 that proposal, when fully impacted, would  
6 really be for not current retirees but for  
7 new people coming into the system and now 25,  
8 30 years later when they're ready to retire.

9 SENATOR SEWARD: I know we have that  
10 related question, we have that income-related  
11 monthly adjustment, the so-called IRMAA.

12 ACTING COMMISSIONER BRABHAM: IRMAA,  
13 yes.

14 SENATOR SEWARD: You know, we got the  
15 Medicare Part B costs, the IRMAA Medicare  
16 payments. Do you know how many current  
17 retirees would be impacted by the state's  
18 discontinuation of IRMAA?

19 ACTING COMMISSIONER BRABHAM: Last  
20 year we paid about 9,000 IRMAA  
21 reimbursements.

22 SENATOR SEWARD: So about 9,000 would  
23 be impacted.

24 ACTING COMMISSIONER BRABHAM: Nine

1 thousand retirees, yes.

2 SENATOR SEWARD: Right. Right.

3 Let's switch to the discussion on  
4 salary protections for state employees that  
5 make that lateral move. The language refers  
6 to provisional and temporary employees. What  
7 is the difference between those two, a  
8 provisional and temporary employee?

9 ACTING COMMISSIONER BRABHAM: So a  
10 provisional employee, as I stated earlier,  
11 for state purposes is someone who is not  
12 permanently appointed to a competitive title.

13 SENATOR SEWARD: And what about a  
14 temporary employee?

15 ACTING COMMISSIONER BRABHAM: A  
16 temporary employee could be someone who is  
17 not a permanent state employee, they've been  
18 hired on a temporary basis. We do have  
19 temporary project jobs where there are  
20 sometimes individuals who are not --  
21 temporary project jobs are open to current  
22 state employees, but it could also be filled  
23 with a person who's not a current state  
24 employee. And it's temporary in nature, in

1 that it is only authorized for up to 18  
2 months.

3 SENATOR SEWARD: Okay. But they could  
4 make a lateral move and still receive salary?

5 ACTING COMMISSIONER BRABHAM: No, it  
6 would not apply to those individuals.

7 Again, this proposal only applies to  
8 individuals who are in competitive titles  
9 that have been reallocated to a better salary  
10 level.

11 SENATOR SEWARD: Okay. Are there any  
12 provisions for the length of time an employee  
13 must serve in a provisional position before  
14 receiving this benefit in the plan? Or can  
15 that happen day one or day two?

16 ACTING COMMISSIONER BRABHAM: When you  
17 say this benefit, if you're referring to the  
18 salary protection, again, we're talking about  
19 individuals who have been reallocated in  
20 their position. So it doesn't -- I'm sorry,  
21 I'm not understanding your question about the  
22 length of time. You mean length of time  
23 before they can move to another position?

24 SENATOR SEWARD: Of service, of state

1 service.

2 ACTING COMMISSIONER BRABHAM: No. No.

3 SENATOR SEWARD: Okay. How often are

4 positions reclassified and downgraded so

5 these protections would be necessary?

6 ACTING COMMISSIONER BRABHAM: So right

7 now we're going through a period of looking

8 at all of the titles that the state has.

9 Right? Because I think when -- in 2015, say,

10 the state had 3500 different titles and some

11 of them did similar kinds of work. Right?

12 So we looked at the clerk titles. We might

13 have file clerks, calculation clerks -- you

14 know, everything that falls kind of in that

15 bucket.

16 And so we take a look at that to see

17 if -- what duties people were performing and

18 if it was similar work. Again, with an eye

19 towards equal pay for similar work.

20 And so we have undertaken the exercise

21 of reducing the number of titles that there

22 are in state government. So we've probably

23 gone, at this point, from about 3500 down to

24 3,000.



1           SENATOR SEWARD: Thank you. My time  
2 is up.

3           CHAIRWOMAN KRUEGER: Thank you.  
4           Assemblymember.

5           CHAIRWOMAN WEINSTEIN: Assemblyman  
6 Crespo.

7           ASSEMBLYMAN CRESPO: Hi.

8           ACTING COMMISSIONER BRABHAM: Hi.

9           ASSEMBLYMAN CRESPO: You and I have  
10 spoken in the past around diversity and the  
11 fact that our numbers in the state workforce  
12 do not make us very proud in terms of people  
13 of color working in various agencies and  
14 throughout the system.

15           Some of the ideas that have been  
16 shared in the past have been implemented, and  
17 I know that in part of your testimony you  
18 talk about the executive order as well as the  
19 executive Committee for Diversity and  
20 Inclusion and some of the ideas that have  
21 been put forward.

22           Could you elaborate a little bit more  
23 on what has been done to make this more  
24 accessible to people of color around the

1 state?

2 ACTING COMMISSIONER BRABHAM: Yes.

3 We've been doing a lot of work around this,  
4 you know, primarily implementing many if not  
5 all of the recommendations that came out of  
6 the 2016 advisory council, which you were a  
7 part of and were a great partner.

8 So, you know, let me start by saying  
9 that, you know, as you know entry to the  
10 state workforce is on a competitive basis.  
11 Right? So 80 percent of the jobs, you have  
12 to come -- you have to take the test, score  
13 high enough on the test and be reachable in  
14 order to be hired into state government.

15 And so we continue to look at our  
16 tests, how we kind of publicize the  
17 opportunities to take the exams, where we  
18 give the tests. One of the big  
19 recommendations that came out of the advisory  
20 council was for Civil Service to do a better  
21 job of bringing testing to the community, as  
22 opposed to, you know, putting up the notice  
23 and waiting for people to discover it and  
24 sign up for the test.

1           And so in -- that was in 2016 that we  
2           were asked to do that. In 2017 when we gave  
3           the PCO exam, we went out to various  
4           communities and held the tests on SUNY  
5           campuses -- Bronx Community College, SUNY  
6           Albany, SUNY Old Westbury, and several other  
7           places. I think there were six campuses that  
8           we went to.

9           We're about to give that test -- it's  
10          given every two years. We're about to give  
11          that test again, in April or May of 2019, and  
12          we'll be doing that again.

13          Some of the other things, you know,  
14          that we're doing is looking at how to work  
15          with community organizations and better  
16          target our recruitment and hiring efforts.

17          ASSEMBLYMAN CRESPO: Is the test free?

18          ACTING COMMISSIONER BRABHAM: In  
19          certain instances the test is free. We also  
20          -- again, one of the recommendations of the  
21          council was do to a better job of  
22          highlighting the availability of fee waivers  
23          for the exams. And so we've, you know, moved  
24          that to the front page of the exam notice and

1 make it more noticeable.

2 So if an individual has a hardship,  
3 yes, they have the ability to apply for a  
4 waiver so that they don't have to pay for the  
5 exam.

6 ASSEMBLYMAN CRESPO: Do you know how  
7 much money has been raised from just the fees  
8 of the exam?

9 ACTING COMMISSIONER BRABHAM: I don't  
10 have that figure, but I could certainly get  
11 it for you.

12 ASSEMBLYMAN CRESPO: I would love to  
13 know. Because I think at some point -- I  
14 mean, it's -- applying for a waiver is one  
15 thing, but just making the test accessible  
16 from the onset, especially if it's given in  
17 neighborhoods where, you know, there's  
18 already a disadvantage in terms of, you know,  
19 from academic outcomes to a financial  
20 hardship that exists in those communities.

21 So I mean, look, we've had this  
22 conversation before around the fact that so  
23 many of the state agency jobs are located,  
24 let's say, here in the Capital Region and in

1 other areas. And I would hope that we could  
2 do a lot more, more aggressively in regards  
3 to this, whether it's more radical thinking,  
4 like moving some agency operations to those  
5 neighborhoods where we could fill those jobs  
6 more easily, or providing additional  
7 assistance and guidance to families who would  
8 choose to relocate to where the jobs are.

9 That's something that we need to do a better  
10 job.

11 I mean, at this point I would ask you  
12 the numbers, but I don't even want to go down  
13 that road. I think that we have a long way  
14 to go. I know that your heart is in the  
15 right place and the agency wants to do the  
16 right thing, but we should more aggressively  
17 look at the recommendations that were done in  
18 2016, or new ideas.

19 You know, the testing venues and using  
20 technology is great, but I don't think that  
21 we're depending on the resources raised from  
22 the fees. So at the very least, we should  
23 look at eliminating those altogether and just  
24 making the tests accessible, particularly in

1 those communities that fill the gaps that are  
2 not represented in the state workforce. And  
3 I'm talking about African-Americans, Asians,  
4 Latinos and others. So -- really want to do  
5 more work in that area.

6 ACTING COMMISSIONER BRABHAM: Sure.

7 ASSEMBLYMAN CRESPO: Thank you.

8 ACTING COMMISSIONER BRABHAM: Thank  
9 you.

10 CHAIRWOMAN WEINSTEIN: Senate?

11 CHAIRWOMAN KRUEGER: Senator Diane  
12 Savino.

13 SENATOR SAVINO: Thank you.

14 Thank you, Commissioner, for your  
15 testimony.

16 I want to go back to the issue of the  
17 provisional reduction plan. It's now 12  
18 years after the Long Beach decision.

19 ACTING COMMISSIONER BRABHAM: Yes.

20 SENATOR SAVINO: And I think we -- the  
21 Legislature last extended the authority to  
22 update the plan or to continue on the plan --  
23 it was supposed to be completed by 2018. So  
24 if you can just give me a brief idea where we

1 are with provisional reduction, how many we  
2 still have left -- and most importantly, the  
3 level of cooperation among the municipalities  
4 and counties to implement the provisional  
5 reduction plan.

6 ACTING COMMISSIONER BRABHAM: Right.

7 Thank you. Because I was going to clarify  
8 that the provisional reduction is not for the  
9 state, it's actually for New York City.

10 SENATOR SAVINO: Right. Mm-hmm.

11 ACTING COMMISSIONER BRABHAM: And yes,  
12 we've been working with New York City for a  
13 number of years, and --

14 SENATOR SAVINO: Twelve.

15 ACTING COMMISSIONER BRABHAM: Yes.

16 And the number of provisionals has  
17 fluctuated. You know, they've made some  
18 progress in some years, and then the number  
19 has gone back up in other years.

20 So a couple of years ago I think, you  
21 know, we kind of stepped up our approach to  
22 oversight, if you will. And, you know,  
23 rather than just having the city report to  
24 us, you know, kind of what their numbers

1 were, we actually started working with them  
2 to analyze where they were giving exams and  
3 in what titles and if they were specifically  
4 targeting the titles that had the larger  
5 number of the provisional employees.

6 And we've been doing that for a couple  
7 of years now, and the number continues to  
8 come down. I think that at some point they  
9 were around 12 percent in terms of, you know,  
10 what percentage of the workforce the  
11 provisionals accounted for. And I know that  
12 that number has come down. I think it's  
13 somewhere around 9 or 10 right now, but I can  
14 certainly clarify that for you.

15 So we do continue to work with them.  
16 They do provide us a report on a quarterly  
17 basis. They come to Albany on a regular  
18 basis to meet with us, you know, to have a  
19 face-to-face meeting with the Civil Service  
20 Commission, members of the Civil Service  
21 Commission to give an update on their  
22 progress. And we provide feedback on how,  
23 you know, certain titles we think that they  
24 should be looking at.



1           SENATOR SAVINO: That's good. Because  
2 as -- what people may not be aware of, if you  
3 have provisionals in place for nine months,  
4 it's supposed to trigger the scheduling of an  
5 exam.

6           ACTING COMMISSIONER BRABHAM: Correct.

7           SENATOR SAVINO: And I know in the  
8 past, under the prior administration in the  
9 city, the focus seemed to be on reclassifying  
10 competitive class positions to the  
11 noncompetitive class to avoid the whole issue  
12 of this. But quite honestly, that puts  
13 workers -- provisional workers are already in  
14 a precarious position in the event of a  
15 layoff, and an even more precarious one if  
16 you convert their titles to noncompetitive,  
17 because noncompetitive employees, as you  
18 know, don't get due process rights until they  
19 have five years of service, which is a much  
20 bigger problem.

21           And so we -- I know Assemblyman Abbate  
22 and myself, when I chaired the committee, we  
23 fought back against that. So I just hope  
24 that the city is not continuing to go down

1 that road, because that really would be  
2 problematic for people.

3 ACTING COMMISSIONER BRABHAM: Yes.  
4 Agreed.

5 SENATOR SAVINO: Oh, one question -- I  
6 asked Commissioner Reardon about it. So  
7 again, technology is changing the workforce,  
8 and a lot of positions that used to -- when I  
9 came in to work for the city as a caseworker  
10 almost 28 years ago, we had unit clerks, we  
11 had typists, we had clerical administrative  
12 staff. All of those functions have been  
13 replaced by technology. But those were  
14 entry-level jobs for a lot of people,  
15 particularly women in the City of New York,  
16 and they've disappeared.

17 So I'm curious, like is Civil Service  
18 looking at ways to create entry-level spots  
19 for people coming into government, those who  
20 want to get into the public service -- but in  
21 jobs that no longer exist, what can we do to  
22 create new opportunities in either the state  
23 workforce or in municipal and county  
24 governments?

1           ACTING COMMISSIONER BRABHAM: I think  
2 the good news is that the types of jobs that  
3 you're talking about that are disappearing  
4 other places do still exist within the state  
5 workforce, and we continue to -- and it  
6 continues to be the entryway for people to  
7 come into state government.

8           I think the question, though, is  
9 really kind of around training and the  
10 availability of training and how decisions  
11 are made about what kind of training we're  
12 going to offer and who has access to it. And  
13 that's something that we're looking at now,  
14 is one of the things that we're going to be  
15 talking to state agencies about under kind of  
16 the new responsibility that we've been  
17 invested with around diversity and inclusion,  
18 because of course we know that that's not  
19 just about race and ethnicity, it's about the  
20 entire state workforce, whether it be  
21 veterans, women, upward mobility, career  
22 mobility and all of that.

23           And so we're going to be working with  
24 state agencies to kind of dig into, you know,

1 what are we doing to prepare our workforce  
2 for the jobs of tomorrow. Right? So it's  
3 not just about the testing, it's about the  
4 training that they are able to avail  
5 themselves of. It's about -- and thank  
6 goodness, you know, we have the tuition  
7 reimbursement programs and all of that, that  
8 allow individuals to go out and get training  
9 and get education and we reimburse -- we, as  
10 in GOER, reimburse the costs of that.

11 So we're going to be looking more  
12 widely at all of these issues and really kind  
13 of how they fall under the umbrella of, you  
14 know, not only diversity but also inclusion,  
15 women in the workforce, a lot of the things  
16 that we've been talking about.

17 SENATOR SAVINO: Thank you.

18 CHAIRWOMAN KRUEGER: Thank you.

19 Assembly.

20 CHAIRWOMAN WEINSTEIN: Assemblywoman  
21 Diana Richardson.

22 ASSEMBLYWOMAN RICHARDSON: Good

23 afternoon.

24 ACTING COMMISSIONER BRABHAM: Good

1 afternoon.

2 ASSEMBLYWOMAN RICHARDSON: And thank  
3 you so much for your testimony.

4 I wanted to echo the sentiments of  
5 Assemblymember Crespo in terms of diversity  
6 and just for the need for us to further do  
7 some work in that particular area.

8 You also got my question about the  
9 fees of the exam. So if we can get the  
10 amount that is generated from that, we would  
11 really love it.

12 I would like to just say that I am  
13 happy to see you doing the testing of the  
14 Professional Career Opportunities Exam. I  
15 know that's going to help a lot of college  
16 graduates. We may want to try to waive that  
17 for them as well, knowing that they're  
18 saddled with debt and broke. Just think  
19 about it. Or at least a scale on time -- you  
20 know, some sort of fee scale.

21 But question. Question, question,  
22 question. This institute that was recently  
23 launched, the Civil Service Institute, is it  
24 connected to a college or institution?

1           ACTING COMMISSIONER BRABHAM: It's not  
2 connected to a college or institution. It's  
3 actually run by my department. You know, as  
4 you know, we have oversight responsibility  
5 for civil service administration as it  
6 pertains to local governments and also to the  
7 state agencies. And so we -- the subject  
8 matter experts within my department actually  
9 put together the curriculum for that training  
10 and participate in delivering the training.

11           ASSEMBLYWOMAN RICHARDSON: So it's not  
12 like an accredited thing, it's like an  
13 internal training?

14           ACTING COMMISSIONER BRABHAM: It's an  
15 internal training program for employees, yes.

16           ASSEMBLYWOMAN RICHARDSON: And how is  
17 one selected to participate? Just asking.

18           ACTING COMMISSIONER BRABHAM: I think  
19 it depends on what the training is. Some of  
20 the training you can just request to attend  
21 the training and get permission for your  
22 agency to attend.

23           Other of the training is geared  
24 towards individuals who work or are

1 participating in traineeships in the  
2 personnel arena, in the HR arena. Because we  
3 think it's important to make sure that  
4 everyone is trained consistently and are  
5 applying the rules and regulations and the  
6 statutes in a consistent way.

7 ASSEMBLYWOMAN RICHARDSON: Just going  
8 back into that diversity committee, who's the  
9 members that are on it? Because I see it was  
10 launched in September '18, and I'm here on  
11 the website but I can't find a list of the  
12 members that are on the committee.

13 ACTING COMMISSIONER BRABHAM: So  
14 there's a few things there. So I think what  
15 you're -- did you say August '18? So you're  
16 referring to --

17 ASSEMBLYWOMAN RICHARDSON: No,  
18 September. The creation of the Executive  
19 Committee for Diversity. That, going back to  
20 that, who's on the committee?

21 ACTING COMMISSIONER BRABHAM: Yes.  
22 Okay. So we're -- the Executive Committee  
23 for Diversity and Inclusion is comprised of  
24 cabinet members. I'm on the committee. I

1 believe the commissioner of the Department of  
2 Labor is on the committee. The state's Chief  
3 Diversity Officer. The Secretary of State.  
4 The Secretary to the Governor, I believe.  
5 And there may be a couple of people that I  
6 missed.

7 ASSEMBLYWOMAN RICHARDSON: Okay.  
8 Thank you.

9 ACTING COMMISSIONER BRABHAM: You're  
10 welcome.

11 CHAIRWOMAN KRUEGER: Thank you.

12 Senator Bob Antonacci, who arrived  
13 late, so he gets two minutes.

14 (Laughter.)

15 SENATOR ANTONACCI: Wow. Thank you  
16 very much. I'll make it quick, I guess we're  
17 at the end of our day.

18 I was the former Onondaga County  
19 comptroller. I sent an audit to your office  
20 back in October of 2017. To the best of my  
21 knowledge, that audit was never examined or  
22 looked at by your office. I'm going to send  
23 you another copy, even though I'm not the  
24 comptroller anymore, because I found what I



1 believe to have been serious problems in our  
2 personnel issues with, you know, as they call  
3 it, double fills, temporary and provisional  
4 appointments, application of the Rule of  
5 Three, and creation of new positions.

6 Do you have any corporate philosophy  
7 or regulations on how you handle complaints  
8 from local municipalities on issues regarding  
9 the hiring and firing of employees?

10 ACTING COMMISSIONER BRABHAM: Well, if  
11 there are -- well, we don't have oversight of  
12 the hiring or firing of employees for local  
13 government. However, if some malfeasance was  
14 brought to our attention, it is something  
15 that we would look into. But we do not have  
16 oversight over that.

17 SENATOR ANTONACCI: So you don't have  
18 any direct oversight of a local personnel  
19 director.

20 ACTING COMMISSIONER BRABHAM: Hiring  
21 or firing -- no, we don't.

22 SENATOR ANTONACCI: Okay, what about  
23 the application of any of the civil service  
24 rules, though?

1 ACTING COMMISSIONER BRABHAM:

2 Application of civil service rules, yes.

3 SENATOR ANTONACCI: Okay. Well then

4 like I said, I'll get you another copy of

5 that letter. I'm sure it's been a while.

6 But, you know, as the local comptroller, we

7 believed that it was important to notify you

8 of our findings, you and State Comptroller

9 DiNapoli. So I'll take another shot at that.

10 Thank you.

11 ACTING COMMISSIONER BRABHAM: Thank

12 you, Senator.

13 CHAIRWOMAN KRUEGER: Thank you. I

14 believe we are complete with you tonight.

15 Thank you very much --

16 ACTING COMMISSIONER BRABHAM: Thank

17 you.

18 CHAIRWOMAN KRUEGER: Oh, excuse me.

19 Senator Seward had one more question.

20 SENATOR SEWARD: Yes, actually two,

21 but we'll make it very, very quick.

22 I wanted to return to the salary

23 protection proposal just for a little more

24 clarification there. Could you tell us --

1 you mention the number of I guess job titles  
2 and so on, you went from 3500 down to 3,000,  
3 if I heard you correctly.

4 ACTING COMMISSIONER BRABHAM: Yes.

5 SENATOR SEWARD: How many provisional  
6 and temporary employees did that impact?

7 ACTING COMMISSIONER BRABHAM: Again,  
8 the salary protection proposal deals with  
9 competitive employees who are in that job on  
10 a permanent basis. So I'm not exactly sure  
11 if there were -- the number of provisions  
12 that would, if any, that would have been  
13 included in that. But we'd be happy to take  
14 a look at it and provide you with that  
15 information.

16 SENATOR SEWARD: Okay. Does this  
17 proposal -- would you think that this would  
18 create some inequity among employees  
19 performing, you know, similar duties? Or is  
20 it just the opposite?

21 ACTING COMMISSIONER BRABHAM: No, I  
22 think it does just the opposite.

23 SENATOR SEWARD: Okay. My final  
24 question is, do you have any information or

1 feeling or knowledge about how the phase-in  
2 of the minimum wage increases have impacted  
3 the state workforce to date? And the local  
4 government workforce.

5 ACTING COMMISSIONER BRABHAM: I can't  
6 speak for the local government workforce.  
7 But I do know that it impacted very few state  
8 employees, as most individuals were already  
9 making above the minimum wage. And for those  
10 who were impacted, that has been addressed  
11 and those wages were raised. Several years  
12 ago. A couple of years ago.

13 SENATOR SEWARD: Yeah, thank you.

14 CHAIRWOMAN KRUEGER: Thank you.

15 Now, just making sure -- thank you  
16 very much for your attendance with us today.  
17 Appreciate it.

18 And the next testifier is Michael  
19 Volforte, for the New York State Governor's  
20 Office of Employee Relations.

21 Good evening.

22 GOER DIR. VOLFORTE: Good evening.  
23 I'll have to correct my testimony since it  
24 says "afternoon." That's all right; it's

1 been a longer day for you all.

2 CHAIRWOMAN KRUEGER: It's still close.

3 It's still sort of afternoon.

4 GOER DIR. VOLFORTE: Kind of.

5 Chairs Weinstein and Krueger and  
6 honorable members of the Assembly and Senate,  
7 good evening. My name is Michael Volforte,  
8 and I serve as the director of the Governor's  
9 Office of Employee Relations. Thank you for  
10 the opportunity to address you on Governor  
11 Cuomo's Executive Budget proposal for the  
12 upcoming fiscal year as it pertains to the  
13 state workforce and my office.

14 During the past year, the state  
15 reached collective bargaining agreements with  
16 several unions that represent executive  
17 branch employees. Agreements were reached  
18 with four unions that represent approximately  
19 60,000 employees.

20 All of the agreements continue to  
21 strike the balance championed by the  
22 Governor, fairly compensating our proud and  
23 valued public workforce, with pay increases  
24 in each year of each agreement, while

1 maintaining fiscal discipline. These  
2 agreements include changes in enhancement to  
3 benefits like health insurance and ensure  
4 that state agencies are able to deliver the  
5 services that they need.

6 As part of these negotiations, we also  
7 reached a number of agreements on  
8 implementing paid family leave and have  
9 recently rolled out the Paid Family Leave  
10 program for approximately 35,000 employees  
11 represented by United University Professions.

12 We offer many other benefits to our  
13 workforce. These include pre-tax  
14 contribution programs for unreimbursed  
15 healthcare expenses, dependent care expenses,  
16 transportation expenses, and a new program  
17 for adoption expenses. We work closely with  
18 our partners in labor to provide these  
19 high-quality benefit programs and many  
20 others.

21 For example, through our  
22 labor-management Work-Life Services program,  
23 we are able to serve employees through our  
24 Employee Assistance Program, pre-retirement

1 planning seminars, wellness services and  
2 state worksite daycare programs.

3 We continue to build upon Governor  
4 Cuomo's commitment to the professional  
5 development of the workforce. We have  
6 statewide mandatory training programs for all  
7 staff designed to protect the workforce,  
8 advise them of their rights and  
9 responsibilities under law and polices, and  
10 ensure access to government services by the  
11 public, including a newly redesigned training  
12 on ethics. We have also continued to  
13 reinforce leadership skills, supervisory  
14 skills, interpersonal relations, and the core  
15 job skills needed by our workforce to assist  
16 the public.

17 Through these professional development  
18 and benefits programs, we are able to serve  
19 tens of thousands of state employees with  
20 workforce benefits or development  
21 opportunities so that they can move forward  
22 in their careers.

23 In December, pursuant to Executive  
24 Order No. 187, my office assumed

1 responsibility for independently  
2 investigating complaints of protected-class  
3 employment discrimination and harassment in  
4 executive branch agencies. With a team of  
5 investigators and lawyers, we are actively  
6 investigating complaints of discrimination  
7 and harassment in order to ensure that all  
8 allegations are investigated, individuals are  
9 advised of the result of that investigation,  
10 and appropriate action is taken in a timely  
11 manner by anyone found to have violated  
12 policy.

13 Over the past year, the core of  
14 organized labor has been threatened by an  
15 anti-labor movement, reflected in the Supreme  
16 Court's Janus decision. The state has stood  
17 up to this movement and passed protections  
18 for public-sector unions in the Civil Service  
19 Law.

20 The Governor also protected the  
21 personal information of state employees from  
22 anti-union forces through Executive Order No.  
23 183. In this year's budget, the Governor  
24 plans to codify and expand that protection



1 for all public employees in New York State to  
2 aid in the fight against these anti-union  
3 forces. The Governor's proposal protects  
4 this information by making it an improper  
5 practice charge under the Taylor Law to  
6 disclose personal contact information of any  
7 public employee except as required by law.

8 The Governor's budget proposal also  
9 guarantees that unions have the right to  
10 receive basic information on the employees  
11 they represent so that they can effectively  
12 represent those individuals in a bargaining  
13 unit. The law further requires public  
14 employers to provide this information, upon  
15 request, at least quarterly to the unions who  
16 request it.

17 We will continue to take commonsense  
18 action to do all that's needed to ensure that  
19 our partners in labor are protected from  
20 attacks.

21 As we turn the page to the next fiscal  
22 year, the state's overall workforce remains  
23 stable, as it has for a number of years.  
24 There are no layoffs proposed in the

1 Governor's budget. My office will continue  
2 to focus on negotiating the outstanding  
3 collective bargaining agreements that we have  
4 and to bring them to conclusion. We will  
5 also implement recently negotiated agreements  
6 and expand the development and education  
7 opportunities for the state workforce in  
8 order to enhance their skills and deliver the  
9 services needed to the public.

10 Over the next year, we will continue  
11 our tradition of collaboration with the  
12 unions in areas like health benefit design  
13 and protecting the safety and security of the  
14 workforce. We will continue to negotiate new  
15 agreements, and I am confident that we will  
16 reach agreements that recognize the valuable  
17 contributions of those in organized labor but  
18 also ensure our ability to meet the needs of  
19 the public which we all serve.

20 Thank you.

21 CHAIRWOMAN KRUEGER: Thank you.

22 Senator Andrew Gounardes.

23 SENATOR GOUNARDES: Thank you,  
24 Director.

1 I want to return to a subject that was  
2 discussed two speakers ago with the  
3 Commissioner of Labor about salary history.  
4 And obviously Executive Order 161 puts your  
5 office in charge of ensuring compliance with  
6 the executive order. And I just want to know  
7 how monitoring compliance is going with that,  
8 have we seen any cases where agencies or  
9 offices have not been in compliance with the  
10 policy? Just give us an update on where we  
11 stand with that.

12 GOER DIR. VOLFORTE: We've seen no  
13 issues of noncompliance since we rolled out  
14 the executive order. The executive order's  
15 been rolled out for some time; all the  
16 agencies were trained by me personally. We  
17 maintain regular contact with the Department  
18 of Civil Service and with the Governor's  
19 appointments office to ensure that any cases  
20 that might result in a question under the  
21 executive order are answered by my office  
22 personally.

23 So we've had no implementation issues.

24 SENATOR GOUNARDES: And is there

1 anything for employees to kind of file  
2 complaints proactively as it relates to  
3 asking for a salary history, or is it more  
4 just checking in with supervisors and other  
5 agency heads on your end?

6 GOER DIR. VOLFORTE: If any employee  
7 feels that the executive order is violated,  
8 they can complain directly to GOER.

9 SENATOR GOUNARDES: Okay. And is  
10 there a formalized process for that, or is  
11 that just file a complaint, send an email?  
12 What's the -- walk me through that, if you  
13 can.

14 GOER DIR. VOLFORTE: Email, phone,  
15 letter, however an employee would choose to  
16 complain, we'll investigate and respond to  
17 any form of communication. But we don't have  
18 an established form or format that an  
19 employee needs to complain in.

20 SENATOR GOUNARDES: And are there any  
21 other cases and other types of compliance  
22 where you do have formalized processes to  
23 receive complaints from employees that --

24 GOER DIR. VOLFORTE: Under Executive

1 Order No. 187 we have a formalized complaint  
2 process, including a formal complaint form  
3 for cases of discrimination or harassment in  
4 state agencies.

5 SENATOR GOUNARDES: Okay, thank you.

6 I'm really interested in the idea of  
7 the health and wellness of our workforce, and  
8 that's a very broad, you know, area to kind  
9 of think about. So I want to just hone in on  
10 a couple of things.

11 You know, I read a study not too long  
12 ago about -- that was done with federal  
13 employees about the positive benefits of  
14 flexible scheduling and also telecommuting  
15 for federal employees. And so have we looked  
16 at, have you looked at the viability of  
17 four-day workweeks, increased telecommuting  
18 options in state service? What's been the  
19 thought or the action around that so far?

20 GOER DIR. VOLFORTE: The state's been  
21 doing telecommuting and flexible work for  
22 over 30 years. We have telecommuting  
23 arrangements that are embodied in at least  
24 one collective bargaining agreement, and it

1 remains with the agency to determine that it  
2 works for them and then they work things out  
3 in a cooperative manner with the unions that  
4 represent the employees that work in that  
5 agency.

6 We also have programs -- it's  
7 nicknamed VRWS, voluntary reduction in work  
8 schedule. It allows employees to accept  
9 slightly less pay for more time off or a  
10 reduced work schedule. And those are also  
11 worked out at the agency level. And we're  
12 always looking at other various things that  
13 might work for both agencies and the  
14 workforce, and those are typically worked out  
15 on an agency-by-agency basis.

16 SENATOR GOUNARDES: How many agencies  
17 are employing these -- you know, either  
18 telecommuting or the reduced workload  
19 scheduling? Do you have a sense of that? I  
20 know not every agency is doing it, right? So  
21 can you just give us a sense --

22 GOER DIR. VOLFORTE: I don't have that  
23 information available to me, but I think it  
24 would probably be more than half of the state

1 executive branch agencies participate in one  
2 form or another.

3 SENATOR GOUNARDES: Okay. And are  
4 there any roadblocks or hiccups in trying to  
5 get everyone to kind of get on board with  
6 that, or are there any logistical challenges  
7 or issues that we should be aware of in terms  
8 of making that more readily available?

9 GOER DIR. VOLFORTE: Sure. There will  
10 -- not every schedule and every workforce is  
11 the same. For instance, a reduced workweek  
12 for the Department of Corrections in prisons  
13 might not work, so you would have a large  
14 segment of the population where they would  
15 typically run their current schedule without  
16 probably consideration from either side about  
17 adapting that schedule.

18 So we'd really have to look at the  
19 workforce either on an agency-by-agency basis  
20 or even a title-by-title basis to see if  
21 those things could work. But the seminal  
22 question is does it first work for the agency  
23 to deliver the services to the public, and  
24 then if it does then those discussions can

1 occur on that agency basis.

2 SENATOR GOUNARDES: And have you done  
3 any studies on a global level across all  
4 agencies to look at the viability --  
5 notwithstanding, you know, the issues you  
6 just raised about four-day workweeks and  
7 four-day scheduling and, you know, staggering  
8 workload schedules to make sure that agencies  
9 have the manpower they need but also making  
10 sure that employees have the benefits of  
11 four-day workweeks?

12 GOER DIR. VOLFORTE: We haven't done  
13 any studies. But as part of those flexible  
14 work arrangements, there are things called  
15 compressed workweeks where some agencies do  
16 have employees who work nine out of 10 days  
17 with a day off or four out of five each week  
18 with a day off each week.

19 So those arrangements do work, but  
20 we've not done a formalized study across all  
21 the agencies.

22 SENATOR GOUNARDES: Is that something  
23 that you'd be willing to kind of pursue to  
24 kind of examine whether or not we can be



1 providing this benefit for our workers? Is  
2 that something that you could possibly  
3 entertain moving forward?

4 GOER DIR. VOLFORTE: We'd be -- we  
5 would certainly participate in looking at  
6 anything along those lines and certainly it  
7 would probably be an area where we'd partner  
8 with the Department of Civil Service, as I  
9 know they have some authority and a report  
10 that they've been working on --

11 SENATOR GOUNARDES: Of course.

12 GOER DIR. VOLFORTE: -- so I think it  
13 would have to be part and parcel of that.

14 SENATOR GOUNARDES: And going back to  
15 your earlier answer about the compressed  
16 workweeks, do you have an idea of which  
17 agencies are using compressed workweeks,  
18 which are not? I mean, I'm just trying to  
19 get a sense as to who is or who is not -- you  
20 know, what agency do we need to be following  
21 up with on our end to make sure that they are  
22 proactively looking at these issues?

23 GOER DIR. VOLFORTE: I don't have  
24 anything specific where I can go agency by

1 agency. But I can generalize. If you look  
2 at an agency that's traditionally  
3 administrative in function or has a large  
4 administrative function, where they tend to  
5 be more of the historical Monday through  
6 Friday, 9:00 to 5:00 type position, that  
7 would be an agency that would be far more  
8 likely to be engaged in an alternate work  
9 schedule than maybe a -- certain law  
10 enforcement agencies. Although we do have  
11 law enforcement agencies like the division of  
12 State Police that has the majority of its  
13 road troopers on 12-hour schedules where they  
14 work a certain number of 12-hour days, have  
15 days off, and that rotates through a 28-day  
16 cycle.

17 SENATOR GOUNARDES: Yeah, I'd love to  
18 follow up with you after these questions if I  
19 can get a list so just so we can start  
20 looking at it from an agency-by-agency  
21 perspective. You know, just understanding  
22 that there are challenges and this is not a  
23 one-size-fits-all policy, the benefits of  
24 some of these things, like a four-day

1 workweek, really are not just because they're  
2 tasks that are more easily done than others,  
3 some of the benefits are mental health,  
4 psychological health, emotional health and  
5 wellness. So some of our more stressful jobs  
6 like corrections, like law enforcement in  
7 some cases could benefit from not having  
8 someone dealing under high-stakes and  
9 high-pressure situations on a constant  
10 schedule. And we may see some of the bigger  
11 benefits and largest benefits in some of  
12 those areas.

13 So just because an area might be more  
14 difficult doesn't mean that it's not  
15 something that we should be still looking at  
16 to make sure that we are giving everyone the  
17 healthy outlets they need and not putting  
18 undue stress and burden on our workforce at  
19 all levels and regardless of what jobs they  
20 perform in.

21 The last thing I kind of want to ask,  
22 if you can just give us a sense as to what  
23 other -- aside from, you know, timing issues  
24 and scheduling issues and things like that,

1 what other types of programs are we looking  
2 at to encourage and promote, proactively,  
3 health and wellness of our workers, of our  
4 workforce here in the state?

5 GOER DIR. VOLFORTE: Well, we have a  
6 large Labor-Management Committee which is a  
7 jointly funded effort between the state and  
8 all of the unions that looks into a lot of  
9 these areas. So we look at things like  
10 pre-tax benefits that I mentioned earlier.  
11 We also look at just general information  
12 programs. We offer an Employee Assistance  
13 Program that not only helps employees in  
14 stressful situations and dispatches people  
15 when there's crises so there's crisis  
16 intervention, but they offer just generalized  
17 information to employees who have issues --  
18 you know, maybe an employee is struggling  
19 with a dependent that they need to find care  
20 for and they can get information on types of  
21 providers they can contact that can be  
22 provided through our AEAP program.

23 We also offer a wellness program,  
24 which is more of the traditional get up

1 moving, be healthy type programs where  
2 employees are given information on a weekly,  
3 monthly, yearly basis, and we encourage  
4 things like an Olympiad where people  
5 participate on paper and do healthy  
6 activities for a certain period of time --  
7 normally during an Olympics -- where they're  
8 pushing themselves in physical nature either,  
9 you know, on lunch breaks or outside of work  
10 to encourage healthy principles and healthy  
11 actions.

12 SENATOR GOUNARDES: So let me ask -- I  
13 have just a few seconds left -- and you may  
14 or may not be the right person to ask this  
15 question to, but it's in the same vein.  
16 Something as simple as the choices of the  
17 things that we put in a vending machine in  
18 any agency office, right, that has a big  
19 impact on what we're doing for people's  
20 health and wellness in a very physical way.

21 Are you -- if you are the right  
22 office, or if not, please tell me -- looking  
23 at those types of things, kind of at the  
24 microscopic level, what are we doing on a day

1 by day, piece by piece thing to make sure  
2 that we are providing the healthiest  
3 environment for our workers?

4 GOER DIR. VOLFORTE: That wouldn't be  
5 my office.

6 SENATOR GOUNARDES: Okay. Who would I  
7 ask that question to?

8 GOER DIR. VOLFORTE: I think those  
9 type of decisions would probably be made on  
10 an agency-by-agency basis. But perhaps maybe  
11 OGS has some contracting parameters that go  
12 with that.

13 SENATOR GOUNARDES: Fair enough.  
14 Thank you.

15 CHAIRWOMAN KRUEGER: Thank you.

16 Diane Savino, you had a question?

17 SENATOR SAVINO: Yes, thank you.

18 Thank you, Commissioner. So I'm not  
19 going to torture you like I did last year on  
20 the salary history thing. We disagree on the  
21 value of it.

22 I do want to make one point, though.  
23 The entire state workforce, every public  
24 employee's salary history is available on the

1 internet, public record, through  
2 SeeThroughNY. So perhaps we should reexamine  
3 that idea. Because we're not protecting  
4 anybody who works in government right now  
5 from having a potential future employer find  
6 out what their salary was.

7 But moving on, I noticed -- you guys  
8 have actually done a really good job on some  
9 of your labor relations efforts, and I want  
10 to commend you for that, including trying to  
11 figure out how to expand paid family leave to  
12 the state's workforce. I'm not sure if you  
13 followed -- the city got into a very  
14 contentious argument with the teachers union  
15 over it, and I didn't quite understand that.

16 But in the Governor's budget -- you  
17 may not be able to speak to this, but you  
18 might want to think about it -- somewhere in  
19 the tax bill he has a proposal for the  
20 creation of a New York State Employer  
21 Provided Childcare Credit. It would create a  
22 childcare credit equal up to 100 percent of  
23 the federal credit for employers who provide  
24 child and dependent care facilities to their

1 employees. Which I think is a wonderful  
2 idea. We should be incentivizing employers  
3 to provide childcare.

4 But is there any possibility of the  
5 state providing that same type of benefit to  
6 its own workforce? Because as we know, we  
7 have a workforce many of whom are parents,  
8 childcare takes up a disproportionate amount  
9 of their income and a lot of their time.

10 It's one of the reasons why you have flex  
11 time in agencies, to allow later start times  
12 to accommodate parents of small children.

13 So is there any possibility that the  
14 state would include this in their  
15 negotiations or attempt to provide a better  
16 benefit, including childcare.

17 GOER DIR. VOLFORTE: Well, I'd have to  
18 look at that specific benefit. But we do  
19 offer a current dependent care benefit. So  
20 it is a pretax program, and we actually have  
21 a sliding scale employer contribution  
22 anywhere from \$300 to \$800, depending on the  
23 salary level. And as long as those expenses  
24 of dependent care, which can include children



1 and adult dependent care, qualify under  
2 federal law, they can use that money to pay  
3 for that on a pretax basis, thereby getting  
4 some tax benefit. So we don't have that  
5 specific credit program, but we do have a  
6 program that we offer across bargaining unit  
7 lines.

8 SENATOR SAVINO: I think we should  
9 look at it, because it would be somewhat  
10 ironic if we were giving a credit to  
11 private-sector employers to provide free  
12 daycare services for their workforce and  
13 we're not doing the same thing for our own  
14 workforce. So perhaps we should look into  
15 that.

16 GOER DIR. VOLFORTE: And the other  
17 thing that we do, and it's spread out among  
18 25-plus sites across the state, is we do  
19 underwrite daycare facilities that have  
20 daycare facilities on state worksites. And  
21 my office helps provide a guidance and  
22 oversight role for those sites. And that's  
23 done and has been done for many, many years  
24 on a cooperative basis with all the unions.

1           SENATOR SAVINO: And finally, you  
2 mentioned the work that's been done with  
3 respect to trying to counteract the Janus  
4 decision. We were very happy last year to  
5 see the Governor take the language that was  
6 in a bill that I was the co-prime sponsor on  
7 and implement it.

8           And so the one question I have is, do  
9 we have a sense of how many workers have  
10 decided to stop paying dues? And are we  
11 sharing the information as people are coming  
12 into the workforce with the relevant unions?  
13 Are we notifying unions when their workers  
14 are dropping out or they're not contributing  
15 to dues anymore so they can attempt to  
16 reengage them?

17          GOER DIR. VOLFORTE: We're involved on  
18 the front end in making sure all the agencies  
19 are complying with the law and providing the  
20 information that they need to provide. And  
21 we believe that agencies are providing that.  
22 When there's a question, we come in and we  
23 make sure we look at it. I don't have a  
24 sense as to how many employees were lost in

1 terms of post-Janus. I think the unions  
2 might have a better handle on that. I know a  
3 number of them worked on Janus before it was  
4 Janus and stemmed the tide of losing that, so  
5 I think that their numbers were much lower, I  
6 think, than anybody expected, but I don't  
7 have that number.

8 And on the back end, they get reports  
9 from the state at least as to who is a  
10 dues-paying member and they have membership  
11 lists of their bargaining unit. So as a  
12 cross-reference between those two, they can  
13 figure out who is a dues-paying member and  
14 who is not.

15 SENATOR SAVINO: Thank you.

16 CHAIRWOMAN KRUEGER: Thank you.

17 Is there any Assembly?

18 I just have one question for you,  
19 then. Thank you.

20 GOER DIR. VOLFORTE: Certainly.

21 CHAIRWOMAN KRUEGER: So I believe that  
22 Assemblymember Crespo asked earlier about --  
23 of Commissioner Reardon -- how the state was  
24 handling ensuring everybody had training in

1 sexual harassment. At least about six to  
2 eight months ago there were newspaper stories  
3 saying that state workers were being directed  
4 to your agency when they had sexual  
5 harassment complaints, and I believe were  
6 told once they got there, No, this isn't the  
7 right place for you.

8 So can you just let me know, if I'm a  
9 state worker and I believe I'm being sexually  
10 harassed on the job, where am I supposed to  
11 go?

12 GOER DIR. VOLFORTE: If you are a  
13 state employee and you feel you're being  
14 sexually harassed on the job -- and this is  
15 for agencies controlled by the Executive. So  
16 there are a couple of agencies that are not  
17 that have their own procedures.

18 CHAIRWOMAN KRUEGER: Correct.

19 GOER DIR. VOLFORTE: But if you're in  
20 an agency you can go in a number of manners.  
21 In a number of the agencies we've located  
22 actual investigators on-site and those  
23 employees could go to those individuals and  
24 file an in-person complaint.

1           They can go to the GOER website. If  
2 you went there tonight, you'd see a button  
3 and it says file a complaint, and there's an  
4 online fillable form. You can fill it out  
5 online, you can email it, it goes directly to  
6 GOER. It doesn't go through an agency.

7           You can certainly take that complaint  
8 form and fill it out on your own, mail it,  
9 email it to us. You can give it to your  
10 employing agency. Those agencies have all  
11 been told that those complaints need to come  
12 to GOER. Certainly we prefer a direct  
13 complaint to GOER, because it's far easier to  
14 track and far easier to take quicker action  
15 on.

16           All the agencies have been  
17 specifically instructed by my office to make  
18 sure that on their internets -- or if they  
19 don't have an internet, other sites, like  
20 handbooks, to post how employees complain and  
21 they post a manual that shows them their  
22 rights and responsibilities as employees  
23 under the law and the protections they have.  
24 And they're told to distribute that on a

1 monthly basis. So every month, we're trying  
2 to make sure the agencies are pumping out  
3 that information to employees.

4 And I think that there was -- so they  
5 come to us on questions. But, you know, on  
6 occasion we do get a question from the  
7 general public on sexual harassment, and  
8 those questions have been referred to either  
9 Human Rights or the Department of Labor,  
10 because I think that's appropriate because  
11 we're not administering that from that. So  
12 we've gotten a couple of questions from time  
13 to time on just the general implementation,  
14 and those have been referred back to DOL, who  
15 I think is the appropriate agency.

16 CHAIRWOMAN KRUEGER: So people who  
17 work for Executive agencies, so there are  
18 many different pathways, but they all lead to  
19 GOER.

20 GOER DIR. VOLFORTE: Correct.

21 CHAIRWOMAN KRUEGER: And what do you  
22 do then?

23 GOER DIR. VOLFORTE: We assign a GOER  
24 employee investigator, and that investigator

1 investigates the complaint and reaches a  
2 conclusion as to what happens on the facts of  
3 the case. The case is then concluded, and  
4 then a conclusion is reached as to whether  
5 it's a violation of policy or not. And if  
6 it's found to be a violation of policy, we  
7 work with the agency and instruct the agency  
8 to take corrective action in that particular  
9 case, and that's really going to depend on  
10 what a particular finding is. And that  
11 applies to all forms of discrimination, not  
12 just sexual harassment.

13 CHAIRWOMAN KRUEGER: And do you keep  
14 statistics -- I'm not asking for names of  
15 people, but statistics on how many cases you  
16 get and what the resolution is?

17 GOER DIR. VOLFORTE: We've only had  
18 the official internal oversight since  
19 December, so I don't have any stats for you.  
20 But we have a record of all the cases we get  
21 and, when they are resolved, we'll have a  
22 record of when they're resolved.

23 CHAIRWOMAN KRUEGER: Thank you. I  
24 think that was it for you tonight. Thank you

1 very much.

2 GOER DIR. VOLFORTE: Thank you.

3 CHAIRWOMAN KRUEGER: Thank you.

4 And our next testifier is -- I heard

5 that cackle, Fran.

6 (Laughter.)

7 MS. TURNER: What was that?

8 CHAIRWOMAN KRUEGER: I said, I heard

9 you cackle.

10 Gee, it's Fran Turner, director of

11 legislative and political action,

12 Civil Service Employees Association

13 Local 1000. Good evening.

14 MS. TURNER: Good evening. Good to

15 see you all again.

16 Before I respond to some of the

17 comments I heard today, I do want to talk

18 about some of our biggest issues, and it has

19 to do with the wellness and health of some of

20 our workers. And while the world of work is

21 changing for a lot of people, for our direct

22 care workers in the Office for People With

23 Development Disabilities, in the Office of

24 Mental Health, it's not changing at all.



1           As a matter of fact, for the first  
2 time ever that I can remember -- and I've  
3 been around for a while -- we are facing a  
4 true recruitment and retention problem in  
5 OPWDD. While our normal attrition rate for  
6 the state workforce is probably 4 to 5  
7 percent each year, in OPWDD our attrition is  
8 up to 12 percent. But more importantly, in  
9 the last year we are experiencing a  
10 25 percent turnover of new recruits in the  
11 first year.

12           Now, on top of this, we're already  
13 doing hours and hours of overtime. So while  
14 our members would love a flex schedule,  
15 they're actually working six days a week, 12  
16 hours a day, if not more -- because you go to  
17 work and you don't know when you're going to  
18 come home.

19           So there has been a true lack of  
20 workforce development for these workers and a  
21 true lack of looking at a career path for  
22 them and offering them steps to improve  
23 themselves. And we have -- well, they  
24 couldn't take advantage of any opportunities

1 for education because they don't have the  
2 time. Unless we're going to let them have  
3 time at work to improve their skills and set  
4 up a career path for them, it's impossible  
5 for them. They're having a hard enough time  
6 balancing their home life with their work  
7 life that is getting in the way. It's just  
8 not working.

9 And I think there's a number of  
10 reasons for why we can't recruit and retain.  
11 And, you know, other jobs that had raised the  
12 minimum wage may become more attractive to  
13 workers because we don't have the Justice  
14 Center, worried about whether I'm ever going  
15 work in this industry again. Right? And we  
16 don't have going to work in the morning not  
17 knowing when we're going to come home at  
18 night, and we have children in daycare and we  
19 have all those problems that everyone has,  
20 and no opportunities for career advancement.

21 So we just go to work every day. And  
22 it's not fun. It's a tough job that a lot of  
23 us wouldn't do. I couldn't do it, I know  
24 that.

1           And, you know, there's so much  
2 opportunity that we could look at. In OMH,  
3 we have a -- and OPWDD -- we are experiencing  
4 a very big shortage in LPNs, and we have to  
5 have LPNs in order to be certified for  
6 Medicaid purposes. So why don't we take some  
7 of these direct care workers and give them  
8 the path to become licensed practical nurses?

9           So that we can move them up the ladder and  
10 help ourselves at the same time.

11           I am not going to say that salary is  
12 the biggest factor in why we can't recruit,  
13 but it is a factor. And obviously it's a  
14 factor for the people we represent in the  
15 not-for-profit industry too, because we do  
16 have not-for-profit OPWDD workers.

17           But our state workers are starting at  
18 a salary of \$15.54 -- that's the starting  
19 salary. So you're paying your pension costs  
20 on top of that. Our members pay for health  
21 insurance on a sliding scale, so they're  
22 paying for their health insurance as well.

23           So we have not done anything to look  
24 at the industry as a whole to make it

1 attractive. And now for the state to sit  
2 back and say we're experiencing this big  
3 turnover rate, it is getting to the crisis  
4 mode, because someone still has to be  
5 available to take care of these clients. We  
6 owe it to these clients and to the citizens,  
7 our most vulnerable, that we're going to take  
8 care of them. And we're going to fail if we  
9 don't look at this, if we don't do some of  
10 the things to correct this.

11 So I ask that you work with us and it  
12 -- we don't have all the best ideas. We just  
13 know there has to be growth opportunities and  
14 there has to be an opportunity to make this  
15 easier for our members so that they can  
16 balance that home/work life and feel good  
17 about it, and feel like they're in a job that  
18 has true value.

19 So I do want to respond to some of the  
20 things that I did hear. And the health  
21 insurance for retirees, obviously it's very  
22 hard to ask people living on a fixed income  
23 to pay for more for their health insurance.  
24 As costs go up, their income is not really

1 going up.

2 But in response to what the retirees  
3 pay, if you retire under the current  
4 contract, you're paying in retirement what  
5 you paid as an active worker. And that  
6 continues, unless of course the state  
7 legislates otherwise for retirees.

8 On some of the other issues, temporary  
9 workers -- this is another failure of the  
10 state to look at long-term workforce  
11 development -- which, Senator Savino, you  
12 asked about usually every year. We have an  
13 overreliance on temporary workers, and we  
14 have a lot of temporary workers. And when we  
15 say -- when we talk about temporary workers,  
16 we're not talking about people who fill in  
17 for people on leave or people who fill in for  
18 people on workers' comp; we're talking about  
19 temp workers that have been classified as  
20 temporary or seasonal workers for years.

21 So last year we worked with the  
22 Governor's office and, believe it or not, in  
23 Parks and EnCon we actually converted --  
24 that's what we called it -- converted almost

1 400 employees from temporary status to  
2 full-time status. We are hoping to move  
3 forward with our other state agencies where  
4 we find a lot of temp workers with the same  
5 conditions to do the same. But it's a  
6 misclassification.

7 So what they do is they work them just  
8 long enough so that they're not full-time  
9 workers, so they don't get the full benefits  
10 of our contract, but they bring them back  
11 year after year after year. According to  
12 Civil Service, they shouldn't be allowed to  
13 do this. But I do want to caution --

14 CHAIRWOMAN KRUEGER: We're going to  
15 have to cut you off --

16 MS. TURNER: Okay. You're going to  
17 cut me off?

18 CHAIRWOMAN KRUEGER: You used up your  
19 10 minutes --

20 MS. TURNER: Okay.

21 CHAIRWOMAN KRUEGER: Five minutes,  
22 sorry.

23 We've gone to a five-minute limit  
24 this year.

1 MS. TURNER: Okay. Cut me off.

2 CHAIRWOMAN KRUEGER: But we have lots  
3 of questions for you, though.

4 MS. TURNER: You do.

5 CHAIRWOMAN KRUEGER: So I think we'll  
6 get to the sections of your testimony you  
7 didn't.

8 Senator -- our chair.

9 SENATOR GOUNARDES: Okay. Thank you.

10 CHAIRWOMAN KRUEGER: Sorry.

11 SENATOR GOUNARDES: Thank you, Fran.  
12 And thank you for responding to some of those  
13 earlier questions and comments.

14 There was a proposal in the budget, I  
15 think it was Part MM, that would eliminate  
16 the requirement that an open competitive exam  
17 be held at the same time that a promotional  
18 exam is held, which provides more  
19 opportunities for labor and  
20 noncompetitive-class employees to advance  
21 their careers.

22 Comment? Oppose, support?

23 MS. TURNER: You know what, we're  
24 still looking at it. I don't want to

1 comment.

2 But, you know, sometimes it's hard to  
3 glean where exactly they're trying to go with  
4 this. But some of our fear is cutting off  
5 promotional opportunities for our current  
6 workers.

7 SENATOR GOUNARDES: As you already  
8 said. Yeah. Of course.

9 MS. TURNER: Yeah.

10 SENATOR GOUNARDES: And do you  
11 think -- we talked about the Janus decision a  
12 little bit, and the executive order last  
13 year. Do you think that the current proposal  
14 in Part E of the budget goes far enough? Or  
15 should we be doing other things to kind of  
16 help in response to the Janus decision?

17 MS. TURNER: You know what, I think  
18 that Part E approached it in a very big -- a  
19 very good way, because they made it an unfair  
20 labor practice if an employer discloses our  
21 personal information. And it's probably a  
22 better way for them to address it.

23 As far as the second proposal in the  
24 budget, it came from us, because we want to



1 know our bargaining unit members on a regular  
2 basis.

3 So we're very pleased with what's in  
4 the budget and what's been done so far.  
5 Believe me, if we could think of more things  
6 under Janus, we would definitely put those  
7 forward. But, you know, the Supreme Court  
8 has stymied what else we can do.

9 SENATOR GOUNARDES: Okay. And you  
10 have a minute 30 left, so I'll give you a --  
11 I'll let you finish up what you didn't get to  
12 say.

13 Is there anything else that you  
14 haven't seen in the budget that you'd like us  
15 to be considering? At least right now.

16 MS. TURNER: Anything else?

17 SENATOR GOUNARDES: On my minute 30.

18 CHAIRWOMAN KRUEGER: No.

19 SENATOR GOUNARDES: I'm turning it  
20 over -- anything else that you think we  
21 should be looking at?

22 CHAIRWOMAN KRUEGER: No, that's not  
23 how we can do it. I'm sorry, Andrew.

24 SENATOR GOUNARDES: Not, no --

1 (Laughter.)

2 MS. TURNER: That's -- I could fill  
3 another 15 minutes with that --

4 SENATOR GOUNARDES: Not to finish your  
5 comments. My question is, is there anything  
6 that has not been brought up or addressed?  
7 Let me rephrase it -- that you think we  
8 should be looking at as we're crafting the  
9 budget. Let me rephrase that.

10 MS. TURNER: All right. So I am  
11 worried about the AIM cuts, if that's what  
12 you're getting at, because we do represent  
13 110,000 local government workers in every  
14 town and village across the state. And while  
15 it may not seem like a lot, to many -- for a  
16 small village or town, it does make a  
17 difference. So I guess --

18 SENATOR GOUNARDES: Thank you.

19 CHAIRWOMAN KRUEGER: Thank you.  
20 Assembly.

21 CHAIRWOMAN WEINSTEIN: I just had a  
22 quick question that concerns a number of us  
23 in Brooklyn. I was just wondering -- your  
24 take on the Governor's proposal relating to

1 eliminating the state operating subsidy for  
2 the SUNY hospitals. As far as I'm -- I'm  
3 really asking on behalf of Downstate, our  
4 Brooklyn residents and workers.

5 MS. TURNER: It seems like a fight we  
6 have to fight every year and especially in  
7 Brooklyn, Assemblywoman, because they didn't  
8 get part of the big Brooklyn \$750 million,  
9 right? And they've been very unsteady and  
10 they treat a lot of underinsured, so they're  
11 not getting their fair share.

12 So we have to fight, and we will fight  
13 this year to get those subsidies back to the  
14 SUNY hospitals, and especially Brooklyn.

15 CHAIRWOMAN WEINSTEIN: Thank you.

16 CHAIRWOMAN KRUEGER: Thank you.

17 Senator Savino.

18 SENATOR SAVINO: Thank you. Thank  
19 you, Fran. Thank you for bringing up the  
20 issue of the human service disparity in terms  
21 of funding. If you were paying attention  
22 last week at the Human Service budget  
23 hearing, I raised that issue again. It is  
24 absolutely deplorable what we compensate

1 people for in the human service sector.

2 But I want to point out something else  
3 in the Governor's proposal. It's like, on  
4 one hand we did really good with the Janus  
5 stuff, and then on the other hand he's got  
6 some crazy proposal about publishing  
7 collective bargaining agreements prior to  
8 their ratification. What is the rationale  
9 behind that?

10 MS. TURNER: We've seen that before  
11 too. You know what? It's not good  
12 rationale, as far as we're concerned --

13 SENATOR SAVINO: Right.

14 MS. TURNER: We're very much opposed  
15 to it because our members should be able to  
16 vote on their contract before it goes public  
17 to the citizens. Right? And I don't know if  
18 he's -- I don't know what the impetus is  
19 behind it. I guess we'd have to ask him.

20 SENATOR SAVINO: I mean, generally --

21 MS. TURNER: I don't want to comment  
22 on what I think.

23 SENATOR SAVINO: Right. Generally  
24 when a contract is negotiated, you know,

1 you'll have some sort of a press release  
2 announcing a deal has been reached --

3 MS. TURNER: Correct.

4 SENATOR SAVINO: -- between CSEA and  
5 the Governor's office, and the top lines will  
6 be out there, you know --

7 MS. TURNER: Right.

8 SENATOR SAVINO: -- without actually  
9 publishing the contract. And I'm just -- I  
10 mean, it just seems rather odd to me that we  
11 would publish the whole thing. But what is  
12 the intended purpose behind that? I wish I  
13 had realized that while I had Mr. Volforte  
14 sitting in the chair there.

15 MS. TURNER: I'll ask him for you.

16 (Laughter.)

17 SENATOR SAVINO: Crazy. Crazy.

18 And on retiree health insurance, I  
19 totally agree with you. Because I realize,  
20 as of today, I have 226 days before I  
21 technically could retire.

22 MS. TURNER: There you go.

23 SENATOR SAVINO: I'm not going  
24 anywhere, but I could.

1 Thanks.

2 CHAIRWOMAN WEINSTEIN: Assemblywoman  
3 Richardson.

4 ASSEMBLYWOMAN RICHARDSON: Good  
5 afternoon, Fran.

6 MS. TURNER: Good evening.

7 ASSEMBLYWOMAN RICHARDSON: Good  
8 evening.

9 (Laughter.)

10 ASSEMBLYWOMAN RICHARDSON: It's always  
11 a pleasure to see you. Let me just say thank  
12 you so much for the work that you do in terms  
13 of highlighting the issues within your  
14 industry and ensuring that your issues stay  
15 to the forefront of the Legislature.

16 You know, I have both SUNY Downstate,  
17 which is Brooklyn's baby anyway, as well as  
18 Kingsboro Psychiatric in my district, and so  
19 I 100 percent underscore your testimony and  
20 will be doing what I can do to fight to make  
21 sure that the money is where it should be.

22 So I was going to mention the funding  
23 about SUNY Downstate, but the chair did that,  
24 so thank you so much for putting that into

1 your testimony.

2 I wanted to hear from you directly a  
3 little bit more, because you referenced it  
4 and you also put it in your testimony, about  
5 what the interactions look like with the  
6 Justice Center.

7 I know. You know, when I'm out in the  
8 community and I'm speaking to the workers, it  
9 seems like morale is extremely low. When you  
10 talk about a 25 percent turnover in new  
11 recruits, what I'm hearing is that  
12 individuals are very afraid to even do their  
13 job, because the Justice Center seems to be  
14 overly reacting in certain circumstances --  
15 I'm just throwing out what I heard, and then  
16 you tell me what's really going on.

17 And so at this point what we're seeing  
18 is a lot of people wanting to just leave the  
19 field in total because they don't want their  
20 license to be in jeopardy. Just go ahead,  
21 I'm going to give you the time to respond.

22 MS. TURNER: Well, we're hearing a lot  
23 of the same and experiencing a lot of the  
24 same.

1 I guess I would describe it this way.  
2 You know, there were all good intentions when  
3 the Justice Center came in, but now the  
4 pendulum has swung too far to the point where  
5 members are afraid to do their jobs. Right?  
6 First of all, they don't have enough staff to  
7 do their jobs, so they're scared. They are  
8 scared that the Justice Center is going to  
9 come in and say: You can't work in this  
10 industry anymore, you're going to get put on  
11 the list. Besides the fact that  
12 investigations can last for nine months to a  
13 year.

14 ASSEMBLYWOMAN RICHARDSON: Is the  
15 person unpaid?

16 MS. TURNER: You could be out on  
17 administrative leave --

18 ASSEMBLYWOMAN RICHARDSON: They're  
19 unpaid? While there's an investigation?

20 MS. TURNER: Yeah. And it's --  
21 it's -- the pendulum has swung too far. It's  
22 gone to the point where if you give chocolate  
23 milk to a client and it wasn't on his work  
24 orders, then you can get in trouble for



1 giving chocolate milk to the client. It's  
2 gone way too far.

3 And I think there is a tendency to  
4 over-report because people are afraid,  
5 because you can get in trouble for not  
6 reporting it as well.

7 So I think it has -- there are certain  
8 things that we can look at to help strengthen  
9 it and to really focus it where it needs to  
10 be focused on. Look, our members do not want  
11 anybody who is abusing or neglecting a client  
12 working side by side with them because, you  
13 know, that ruins it for everybody. So I  
14 think there are some things that we can look  
15 at within the legislation to tighten it up to  
16 those things that it was really intended to  
17 look at.

18 ASSEMBLYWOMAN RICHARDSON: Okay.  
19 We'll follow up and have a side conversation,  
20 because we're out of time.

21 MS. TURNER: I will -- yes. That's  
22 great.

23 ASSEMBLYWOMAN RICHARDSON: Thank you.

24 CHAIRWOMAN KRUEGER: Thank you.

1 Senator Antonacci.

2 SENATOR ANTONACCI: Thank you. Hi.

3 MS. TURNER: Hi, how are you?

4 SENATOR ANTONACCI: Good.

5 I don't think I'd be here if it wasn't  
6 for the hardworking men and women that worked  
7 for me for 11 years. They did a great job,  
8 and I want to let you know that.

9 MS. TURNER: Thank you.

10 SENATOR ANTONACCI: We have some great  
11 employees at Onondaga County.

12 You know, there's been a lot of talk  
13 about the direct care movement, and I don't  
14 necessarily want to get into a debate over  
15 the minimum wage, but I think it's safe to  
16 say that the increase in the minimum wage has  
17 allowed some workers to maybe make a choice  
18 as to whether or not they want this very  
19 hard, sometimes ungratifying -- it's  
20 gratifying work personally, but you don't get  
21 a lot of gratification sometimes -- to go and  
22 work at a fast food establishment instead of  
23 direct care. Yet I'm believing, or told,  
24 that the Governor did not include a

1 cost-of-living increase, a simple  
2 cost-of-living increase in the budget.

3 What do we need to do in this budget  
4 to help that particular industry? And maybe  
5 even as much as a particular minimum wage, I  
6 don't know.

7 MS. TURNER: Well, you know what, I  
8 think it varies by geographics as well. So I  
9 think we need to look at the geographics.

10 But as far as the COLA for the  
11 not-for-profits goes, yeah, he has  
12 forestalled that for a while, and that's got  
13 to change, because they need to be brought up  
14 as well.

15 But I think as an industry we have to  
16 look at how do we make this job valuable to  
17 them. How do we make a profession out of  
18 these jobs so that people actually want to  
19 build a career in this industry? And that  
20 is -- that is a longer-term, bigger  
21 picture -- and it's not just money. Right?  
22 It's giving them the career ladder and the  
23 steps and the educational opportunities to  
24 improve their skills and continue their

1 education and feel valuable because their  
2 jobs are valuable.

3 SENATOR ANTONACCI: Sure.

4 MS. TURNER: But for them, people  
5 would not be taken care of in the  
6 developmental or in the mental health world.  
7 They wouldn't be taken care of.

8 SENATOR ANTONACCI: Yeah.

9 MS. TURNER: But this applies across  
10 the industry, not just for the state workers.  
11 It's the not-for-profit workers as well.

12 SENATOR ANTONACCI: Okay. Thank you.

13 CHAIRWOMAN KRUEGER: Thank you.  
14 Assembly.

15 CHAIRWOMAN WEINSTEIN: Assemblyman  
16 Bronson.

17 ASSEMBLYMAN BRONSON: Good evening,  
18 Fran.

19 MS. TURNER: How are you?

20 ASSEMBLYMAN BRONSON: I'm doing well.  
21 Nice seeing you.

22 So it's interesting to observe what's  
23 happening from this administration. You  
24 know, when the commissioner of labor was

1 testifying earlier today, the vast majority  
2 of the questions were about investing in  
3 workforce development. We talked about the  
4 \$175 million -- you know, he now has a new  
5 initiative through the Regional Economic  
6 Development Councils to emphasize workforce  
7 development for the private sector. The tax  
8 credits, over and over again, all of these  
9 things I support.

10 But listening to your testimony and  
11 reading your written testimony, there doesn't  
12 seem to be any emphasis on workforce  
13 development for our public employees. And  
14 quite frankly, the reason government works is  
15 because of the public employees. And many of  
16 your members are in the most important  
17 occupations in taking care of the most  
18 vulnerable in the state.

19 So you had some suggestions in your  
20 written testimony about career pathways,  
21 moving people up, maybe -- I think your  
22 example was licensed practicing nurses -- and  
23 then recruiting other people in to take the  
24 other positions.

1           So I guess -- can you flush that out  
2           for me a little bit more? I mean, what kind  
3           of conversations have you had with the  
4           various agencies to try to really put  
5           together a workforce development for the  
6           public employees that will benefit the  
7           agencies, benefit the employees, and benefit  
8           the clients?

9           MS. TURNER: Well, we have just  
10          started talking about it, but some of the  
11          things that we were looking at was -- first  
12          of all, I'm jealous of the \$175 million for  
13          workforce development for private sector. I  
14          am jealous of that because we certainly could  
15          use workforce development money for the  
16          public sector.

17          But we talked about a degree program  
18          or a certification program. We talked  
19          about perhaps we can partner with the SUNYs  
20          or with Empire College where they could get  
21          some life credit experience, right, as well  
22          as some educational experience to give them  
23          more skills. Create a degree program, a  
24          certification program. Perhaps we reach out

1 to the local BOCES to start a program through  
2 the local BOCES that we have outside of  
3 New York City.

4 I mean, all these things could be  
5 utilized as a way to develop a career path, a  
6 professional career for them. So those are  
7 some of the things that we've thought about,  
8 and we are -- by no means do we have all of  
9 the answers or all of the suggestions. So  
10 anything that you can think of, we would  
11 gladly take and work with.

12 ASSEMBLYMAN BRONSON: Well, I agree  
13 with you, we need to have some very serious  
14 conversations and dialogue about how to make  
15 this happen, because at the end of the day  
16 it's all about having people have good jobs  
17 and quality jobs so that they can in turn  
18 provide for those clients that you guys  
19 serve. So any way I can be helpful, I  
20 welcome that opportunity.

21 MS. TURNER: I appreciate that.

22 CHAIRWOMAN KRUEGER: Thank you, Fran.  
23 We all appreciate you coming tonight.

24 MS. TURNER: Thank you. Okay.

1 CHAIRWOMAN KRUEGER: Thank you.

2 And our next testifier is Randi

3 DiAntonio, vice president, New York State

4 Public Employees Federation.

5 MS. DIANTONIO: Good evening.

6 (Laughter.)

7 MS. DIANTONIO: And my sidekick, Greg

8 Amorosi.

9 Good evening, Chair Krueger, Chair

10 Weinstein, and other distinguished committee

11 members. As mentioned, my name is Randi

12 DiAntonio, and I am the vice president of the

13 Public Employees Federation. I am also a

14 licensed master social worker and have worked

15 for OPWDD since 1999, and before that the

16 Office of Children and Family Services. So I

17 can absolutely confirm everything Sister

18 Turner has just said about the difficulties

19 in the OPWDD workforce that have been going

20 on for the last six to eight years as we've

21 transitioned into a model that I believe has

22 been very vague, ill-advised, and not

23 well-planned-for.

24 I'm here today on behalf of our 54,000



1 members to speak about the proposed budget.  
2 And, you know, we take a lot of pride in the  
3 work that we do. And over the last eight to  
4 10 years, staffing levels in all state  
5 agencies, including OPWDD and OMH, have been  
6 flat year after year. These budgets are  
7 taking a toll on the state workforce.

8       You know, doing more with less is  
9 something we're proud to do. We've been  
10 doing more work forever, but it has become  
11 increasingly difficult to take care of  
12 New York State's most vulnerable citizens, to  
13 keep our roads and bridges as safe as they  
14 should be, because we're contracting out  
15 almost every aspect of that workforce.

16       Our members are dedicated  
17 professionals. They love their jobs. But  
18 they're suffering from this understaffing,  
19 and low morale was mentioned. That is  
20 present in virtually every agency in all  
21 fields.

22       We believe this is a result of a  
23 number of factors, but the state's continued  
24 reliance on consultants to do the work that

1 our trained professionals should be doing,  
2 the continued erosion of the civil service  
3 and merit system under which we're supposed  
4 to be operating, the ongoing and disturbing  
5 trend of using private and not-for-profit  
6 entities to do work that -- while we have no  
7 problem with our brothers and sisters in the  
8 private sector, they don't provide the same  
9 level of services with the same level of  
10 experience to take care of New York's most  
11 needy citizens.

12 And whether it's OITS, OMH, OPWDD, or  
13 DOT, this outsourcing is continuing to divert  
14 services and resources in ways that are  
15 detrimental to our clients, to our citizens,  
16 and to the New York State taxpayer.

17 The Executive Budget does propose a  
18 small increase in the number of the state  
19 workforce: 678 new positions under the  
20 control of the Governor would be filled in  
21 the upcoming year. But let me point out,  
22 that's out of 120,000. That is an increase  
23 of less than 1 percent. And we're not going  
24 to complain, it's going in the right

1 direction. However, much, much, much more  
2 needs to be done across the board to make up  
3 for the losses that we've experienced over  
4 the last decade.

5 The majority of state agencies, if you  
6 look in the budget, contain either zero or  
7 very modest increases. And let me say this.  
8 These positions on paper, it looks like  
9 they're staying the same, but in fact as  
10 people attrit and leave the state workforce,  
11 those positions are not necessarily being  
12 backfilled with like titles.

13 So you don't lose a nurse and get a  
14 nurse, necessarily; you lose a nurse and you  
15 may get some other administrative position.  
16 So on paper it looks the same, but people  
17 aren't being taken care of as well.

18 The use of consultants is increasing  
19 in this year's budget. The Governor has  
20 recommended 169 additional FTEs in the  
21 consultant service contract. And let me  
22 point out that nearly \$1 billion will be  
23 spent on over 8300 consultants with an  
24 average annual salary of over \$112,000. We

1 believe that money should instead be  
2 reinvested in the state workforce.

3 We would be thrilled for you to  
4 reevaluate how this money is being spent. We  
5 can do this work and we have done this work  
6 and we believe we do it better.

7 We're happy that the Governor hasn't  
8 proposed any new closures. However, we are  
9 concerned that we were notified outside of  
10 the budget process of the closure of the Ella  
11 McQueen facility. We're concerned that this  
12 facility provides services to the youth in  
13 the New York City area and that by closing  
14 that, those kids will now be moved to other  
15 facilities. We don't think that's the right  
16 thing to do, and we're asking for your help  
17 again to stop that closure.

18 We're also happy that IBR, the  
19 Institute for Basic Research, will remain  
20 open for another year, but we are concerned  
21 that that facility is being underfunded, that  
22 OPWDD, which oversees that facility, has sort  
23 of taken a hands-off, backseat approach and  
24 really is not providing the level of support

1 needed for the great research that that  
2 facility can do. They take care of babies.  
3 They bring information to us about dementia  
4 and Alzheimer's. And we need the support of  
5 the Legislature to keep that facility open  
6 and functioning.

7 You know, we thank you for Western  
8 New York Psychiatric Center, and we  
9 recognize -- arghh -- we recognize that the  
10 Governor is adding money -- two seconds --  
11 design-build, again, bad one but an oldie --  
12 but a bad one. We'd like that pulled. We  
13 are the proverbial fox in the henhouse where  
14 safety -- you know, it should be a priority,  
15 and it's not when we have everybody doing the  
16 design, the construction, and the build.

17 SUNY hospitals, please restore the  
18 subsidy. You did it for us last year, we're  
19 asking for you to do it again. OMH and  
20 OPWDD, I can probably talk for an hour about  
21 it, so I won't, other than to say that you  
22 can't keep throwing money down the drain and  
23 pretend that there are people that don't need  
24 a higher level of services.

1           Community-based services our members  
2 support. Taking away intensive treatment  
3 services ends up with people homeless, in  
4 jails, and in hospitals where they don't  
5 belong. We appreciate your help in  
6 reinvesting in that workforce.

7           We oppose the jail-based restoration.  
8 The Justice Center -- you know, our members  
9 are scared. They're at risk of losing that  
10 license, they get put out of work for months  
11 on end. It doesn't make sense. And, again,  
12 we believe in making sure people aren't  
13 abused. That has nothing to do with it.

14          Nurses, we're at a crisis. We have --  
15 Sing Sing is at a 75 percent vacancy rate,  
16 all other facilities 20 percent vacancies.  
17 We don't pay our nurses enough. They are  
18 significantly lower-paid than the private  
19 sector with significantly more mandates,  
20 significantly more assaults on them, they're  
21 working in very difficult environments. So  
22 we're asking to look at the civil service  
23 salary rate of our nursing and medical  
24 titles. We are unable to recruit and retain

1 any of them.

2 CHAIRWOMAN WEINSTEIN: Thank you.

3 Thank you. We do have your written

4 testimony.

5 MS. DIANTONIO: I know.

6 CHAIRWOMAN WEINSTEIN: I know there

7 are some questions.

8 Senator Savino.

9 SENATOR SAVINO: Thank you. I just

10 have -- first of all, I agree with everything

11 you said, Randi. Everything and --

12 everything in your testimony.

13 There is one question. You mentioned

14 IBR. And so one of the things we've been

15 waiting for for the past couple of years is

16 for this -- you know, the merger of IBR to

17 SUNY, to take it out from underneath the

18 jurisdiction of OPWDD. Because we believe it

19 should be the premier research institution

20 that it can be, but it needs the research and

21 the support structure that SUNY could provide

22 to them. Any idea where they are in that

23 process?

24 MS. DIANTONIO: So I can just say we

1 have implored OPWDD to sit down and talk with  
2 us. We have not had a blue-ribbon-panel  
3 meeting since last April. We have had  
4 meetings with -- I know that the council  
5 leader and members have met with you and  
6 other legislators there. We just wrote a  
7 letter to the Governor asking again for  
8 clarity on what is going to happen with this  
9 facility.

10 They can't keep operating like this  
11 because (a) the building's falling apart --

12 SENATOR SAVINO: Right.

13 MS. DIANTONIO: -- they can't get  
14 grants. And they provide a really important  
15 service.

16 So no, we don't know what's happened.  
17 We do have a new commissioner at OPW, we have  
18 just reached out to him and are hoping we get  
19 some additional answers. But at this point  
20 we know nothing more than we did a year ago.

21 SENATOR SAVINO: Yeah. We should talk  
22 about this offline. Because again, this was  
23 a commitment that was made to the institute,  
24 to the people of Staten Island, in the spirit



1 of Betty Connelly and the spirit of  
2 Willowbrook. This is the site where we  
3 believe that with the right structure,  
4 research that could be done there could  
5 provide the key to autism, and it's  
6 unfortunate that they're dragging their feet  
7 on it.

8 Thank you.

9 MS. DIANTONIO: Yeah.

10 CHAIRWOMAN WEINSTEIN: Thank you.

11 Assemblyman Bronson.

12 ASSEMBLYMAN BRONSON: Good evening,  
13 Randi. Nice seeing you.

14 MS. DIANTONIO: Hi, Harry.

15 ASSEMBLYMAN BRONSON: So I want to  
16 just talk about two things.

17 First of all, the outsourcing -- as  
18 you well know, I've been carrying a bill that  
19 would require an analysis be done by an  
20 agency on whether or not it could be --  
21 whether services could be cost-effectively  
22 done by in-house state employees versus  
23 contracting it out. It really is -- it's to  
24 get the best result for our taxpayer dollars.

1 So hopefully we can continue to work on that  
2 and get the Governor to agree with us.

3 And, you know, comptrollers on both  
4 sides of the aisle have repeatedly issued  
5 reports saying that it would save taxpayer  
6 dollars. So I'm on board with that.

7 I want you to -- you and I have talked  
8 a lot because the Rochester Psych Center is  
9 in my district, literally right up the street  
10 from my home. And over the years the beds  
11 have been closed, staffing has been  
12 shortened, we don't have enough people  
13 working there. And the result has been -- so  
14 as we have reduced the number of state beds,  
15 you would hope that we would be increasing  
16 our investment in community-based services to  
17 provide the services for these folks who are  
18 out in the community. But that hasn't  
19 happened either.

20 What has happened is that those  
21 clients are going to emergency rooms for  
22 mental health services.

23 Could you tell me in your words what's  
24 really happening out in the field so people

1 know what's happening to these clients?

2 MS. DIANTONIO: So I think, under the  
3 guise of the Olmstead decision, the state  
4 made a plan to move people out of facilities  
5 into less-restrictive settings. And by and  
6 large, our members support every instance  
7 that that can be done when it's done safely.

8 But what's happening is they took it  
9 and they applied it to pretty much everybody  
10 and said, Okay, you're in an institution,  
11 you're going to be moved here. And so  
12 they've taken people from very highly  
13 structured settings and moved them into  
14 settings where they're not getting the  
15 treatment that they need.

16 And I think in fact they are playing  
17 sort of games with the beds in many of these  
18 locations, where they keep them vacant for a  
19 long enough period to say that they're not  
20 needed, and then they're able to close the  
21 bed.

22 What's happening is people with high  
23 needs are being moved out to settings where  
24 they are not getting the care they need.

1 They don't have the judgement or the ability  
2 to make sure that they take their meds, and  
3 they end up in situations with, you know,  
4 people that come into a home or supportive  
5 apartment who have entry-level education and  
6 experience and don't have the clinical skills  
7 to assess and really take care of these  
8 individuals.

9 I mean, the reality is there are  
10 many people who could be served in the  
11 community if we had a continuum of care. We  
12 have community group homes that are not being  
13 utilized in the mental health system where  
14 they're leaving beds empty -- those would be  
15 great for transitional services, for people  
16 coming out of hospitals, coming out of jails,  
17 where they can be observed, assessed, ensure  
18 that they are being discharged with the right  
19 care.

20 What's happening now is our members  
21 are being directed or coerced -- coerced is a  
22 hard word -- they're being directed to  
23 basically make it work: Move this person  
24 out and make it work. And sometimes that's

1 not possible because the person just needs  
2 more services than are available in the  
3 community. And we need to do a better job.

4 ASSEMBLYMAN BRONSON: I thank you. My  
5 time's up.

6 MS. DIANTONIO: Thanks.

7 CHAIRWOMAN WEINSTEIN: Thank you.

8 CHAIRWOMAN KRUEGER: Senator Robert  
9 Jackson.

10 SENATOR JACKSON: Hello. Good  
11 afternoon, Madam Vice President. How are  
12 you?

13 MS. DIANTONIO: Good, Senator Jackson.  
14 How are you?

15 SENATOR JACKSON: Good.

16 So just for disclosure information  
17 purposes, I worked for PEF for 23 years. So  
18 you just need to know that.

19 (Laughter.)

20 MS. DIANTONIO: Do you want to come  
21 down here?

22 CHAIRWOMAN KRUEGER: Thank you for the  
23 clarification, Senator.

24 SENATOR JACKSON: Yeah. So I wanted

1 to touch base with you on two matters.

2 The Justice Center -- how has the  
3 operations of the Justice Center impacted the  
4 members of the PS&T units that PEF members in  
5 the various agencies and departments at the  
6 Justice Department is involved with?

7 MS. DIANTONIO: So the Justice  
8 Center -- again, well intentioned, but we  
9 have a lot of unintended consequences.  
10 Primarily in OMH, OPWDD, OCFS, our nurses and  
11 the folks that work most closely with the  
12 individuals have the highest propensity of  
13 being sucked into Justice Center  
14 investigations.

15 We have nurses who have been brought  
16 up at risk of losing their license, we have  
17 had staff put out of work, paid and unpaid,  
18 for months on end, which in turn makes the  
19 setting more unsafe versus more safe.

20 Members are afraid. They're afraid to  
21 report, they're afraid not to report.  
22 They're afraid of false allegations. We  
23 serve people that have difficult behaviors,  
24 and they have figured out if they say certain

1 things they can get that person in trouble.

2 So we have a lot of situations where  
3 we can't retain people. They come onto state  
4 service and then they get sucked into a  
5 Justice Center investigation, they're like,  
6 uhn-uhn, I'm not going to lose my license  
7 over this, and so they leave.

8 And it's created just this cloud of  
9 fear, and people are really reluctant to get  
10 into the field.

11 SENATOR JACKSON: Does that have an  
12 impact on whether or not -- if they are  
13 brought up on charges, and whether or not  
14 they're resolved or not, and they go for  
15 employment elsewhere where they're suspended  
16 or anything like that, how does that impact  
17 their -- another employer looking at them as  
18 far as bringing them on board?

19 MS. DIANTONIO: So it depends on who  
20 the other employer is. If it's another state  
21 agency, they would have access to see  
22 allegations, substantiated or not. If a  
23 charge is substantiated and it is in a  
24 certain category, this could potentially stop

1 someone's career in the medical field.  
2 Anywhere that takes Medicaid or Medicare,  
3 they would be on an exclusion list, so they  
4 wouldn't be able to work anywhere -- doctor's  
5 offices, hospitals. So it's a deal-breaker,  
6 it's a career-ender in certain instances.

7 So that is a huge concern for our  
8 folks in the medical field particularly.

9 SENATOR JACKSON: And how is the  
10 situation with SUNY hospitals and the  
11 staffing situation overall -- and I know  
12 there's a big hospital at Stony Brook, and  
13 Upstate New York -- as far as nurses? Can  
14 you elaborate on that from the union's point  
15 of view?

16 MS. DIANTONIO: The SUNY hospitals, by  
17 and large, are understaffed with nurses.  
18 There is excessive amounts of mandatory  
19 overtime, our nurses have been given sort of  
20 carrots with geographic pay. But that's not  
21 the solution. They are not being paid  
22 significantly close to what the private  
23 sector is making, and then they still have to  
24 deal with all this other stuff.



1           And so people are not -- they're not  
2   saying the scheduling is out of control at  
3   the SUNYs. They're all over -- they're being  
4   moved to units that they're not -- they have  
5   no experience with because of short staffing.

6           SENATOR JACKSON: And how would that  
7   impact the -- looking at it, it says the  
8   Governor has again -- to eliminate the  
9   subsidies for the hospitals, and  
10   \$78.6 million -- if in fact that's not  
11   renewed, I would assume it would be a  
12   devastating impact on SUNY.

13          MS. DIANTONIO: Yeah, I mean the SUNY  
14   hospitals right now are not budgeting it in a  
15   way that takes care of their employees. So  
16   loss of that amount of money would absolutely  
17   devastate the recruitment, retention, and  
18   keeping of nurses at those hospitals.

19          SENATOR JACKSON: Right. Well, let me  
20   thank you for your testimony. I appreciate  
21   the opportunity to chat with you.

22          MS. DIANTONIO: Thank you.

23          CHAIRWOMAN KRUEGER: Thank you so much  
24   for being here tonight.

1 MS. DIANTONIO: Thank you so much.

2 CHAIRWOMAN KRUEGER: Next is Barbara  
3 Zaron and Joseph Sano, Organization of  
4 New York State Management Confidential  
5 Employees.

6 Hi, Barbara. Good evening.

7 MS. ZARON: Good evening, Chairwoman  
8 Krueger and Weinstein and committee members.  
9 Thank you so much, first of all, for your  
10 support last year for our retiree parity bill  
11 which was poised to pass and at the last  
12 minute was stopped.

13 So here we are. This is the 10th year  
14 we've been trying to fix this problem, and  
15 we're back here asking you to help us. Our  
16 bill has been introduced -- it's Assembly  
17 2462, Senate 899 -- and we would seek your  
18 support and hopefully inclusion in the  
19 budget, because otherwise the Governor is  
20 going to say it's not in the budget, no go.

21 You've already talked about the  
22 Governor's three proposals for retiree health  
23 insurance. I won't belabor the point. We  
24 have unequivocally opposed these proposals

1 five years -- this is the sixth year. We  
2 urge you most strenuously to reject them  
3 again this year.

4 We do support granting the State  
5 Comptroller the authority to approve, review  
6 and approve, certain SUNY and CUNY contracts.  
7 But we have serious questions about why the  
8 Governor thinks that the Inspector General  
9 needs to be put into this mix. He has  
10 proposed, at least in our reading, he's  
11 proposed that the Inspector General be  
12 reviewing and approving these contracts at  
13 the same time as the Comptroller is doing it,  
14 which seems completely duplicative and  
15 unnecessary.

16 If the Inspector General should be  
17 involved, it should be after the Comptroller  
18 has already done the review and, if there's  
19 an identification of something wrong, it can  
20 be referred to the Inspector General for  
21 further investigation.

22 As you see in our written testimony,  
23 we have serious concerns -- and this is for  
24 the long-term health of the civil service

1 system and the workforce -- about the  
2 increasing numbers of exempt and  
3 noncompetitive positions specifically in the  
4 M/C jurisdictional class. According to the  
5 2017 workforce report, 2 percent of the total  
6 workforce is in the exempt category. But  
7 30.4 percent of the M/C positions are in the  
8 exempt category, which to us is completely  
9 way, way, way out of bounds.

10 There was a mention made earlier of  
11 succession planning. We've been talking  
12 about this for years. We have made a series  
13 of proposals. We note that \$500,000 has been  
14 included in the Civil Service Department  
15 budget this year for possibly five pilot  
16 programs which could be implemented, and  
17 including succession planning activity, so  
18 we're happy to see that and certainly  
19 interested in working with the Civil Service  
20 Department.

21 We raise the income protection plan,  
22 which is a program that mandates M/C  
23 employees essentially give up five days of  
24 their annual leave -- annual leave?

1 MR. SANO: Sick leave.

2 MS. ZARON: -- sick leave accruals  
3 every year, and that five days goes to pay  
4 Metropolitan Life to provide a short- and  
5 long-term disability program.

6 M/C employees come to us and say,  
7 Can't I get out of this, can't I get out of  
8 it, can't I get out of it? There is no  
9 provision for an opt-out. We are proposing  
10 that there should be a one-time opt-out  
11 provision offered to M/C employees, and there  
12 also should be much more oversight of the  
13 program generally, because lately there has  
14 been an increase in what we call bungled and  
15 rejected claims. So we think that needs to  
16 be addressed.

17 There are a number of issues that were  
18 raised -- I see the yellow light.

19 CHAIRWOMAN KRUEGER: One minute left.

20 MS. ZARON: One minute.

21 I just want Joe to mention -- we have  
22 a lot of experience also with the  
23 Justice Center, so if you will indulge me,  
24 I'd just like him to talk about our

1 experience.

2 MR. SANO: The biggest thing about the  
3 Justice Center, which was kind of hinted all  
4 around it today, was the fact that -- and  
5 Fran had mentioned the fact about the  
6 overtime. Our people are the managers that  
7 manage these units, and the problem is that  
8 very often we see that positions have been  
9 allocated in the budget that you will help  
10 pass. You'll allocate positions for OPWDD  
11 and OMH, and then the Division of Budget will  
12 sit on these.

13 As Senator Jackson knows very well,  
14 the old joke in state service was don't  
15 travel and don't put in a request for any new  
16 help in January, February, or March, because  
17 they have to roll over that money.

18 Last year, what, \$1.3 billion was  
19 rolled over to cover the deficit? And that  
20 basically was money coming out of personal  
21 services.

22 You don't have the personal services  
23 that have been allocated, you don't put the  
24 people there to do the work -- then you have

1 problems.

2 We have one situation that I can tell  
3 you how it really affects people. PEF kind  
4 of hinted at it. There's something that's  
5 called a safe takedown position, and the safe  
6 takedown requires two individuals to help  
7 somebody that's in panic mode, to bring them  
8 to the ground so that they're safe, they're  
9 not hurting themselves or somebody else.

10 What do you do when there's only one  
11 person on board? What do you do? You bring  
12 the person down, you get the risk of being  
13 brought up on charges. I would venture to  
14 say that we really have to take a look at the  
15 Justice Center and see if we're any better  
16 off with the Justice Center and all of the  
17 expenses associated with the Justice Center  
18 than we were with the Commission on Quality  
19 of Care. I don't think that we are.

20 CHAIRWOMAN KRUEGER: Thank you. So --

21 MS. ZARON: No, no, no, I'm not -- all  
22 I'm going to do is say we would be happy to  
23 meet personally, individually, with any of  
24 you who want to talk more about -- in more

1 depth about some of these other issues.

2 CHAIRWOMAN KRUEGER: Thank you very  
3 much.

4 Any questions?

5 Thank you both for being here.

6 MS. ZARON: We can do that with our  
7 individual meetings.

8 CHAIRWOMAN KRUEGER: Exactly. Thank  
9 you very much.

10 Next, John McPadden, Retired Public  
11 Employees Association.

12 Good evening.

13 MR. FARRELL: Chair Krueger, good  
14 evening. I am not Jack McPadden. Jack was  
15 unable --

16 CHAIRWOMAN KRUEGER: I didn't think  
17 so.

18 MR. FARRELL: No, I'm Ed Farrell. I'm  
19 the executive director.

20 CHAIRWOMAN KRUEGER: Thank you.

21 MR. FARRELL: And Jack had a  
22 commitment that he was not able to be here  
23 tonight.

24 But in deference to your long hours



1 here today, I will be very brief. I will  
2 quickly summarize the testimony and take any  
3 questions that you may have.

4 It's a big year for the Retired Public  
5 Employees Association. We're celebrating  
6 50 years of existence. There are over  
7 400,000 public retirees in New York State --  
8 that's from the State and Local Retirement  
9 System -- and over half of those are in  
10 NYSHIP. And this brings to the forefront the  
11 issues that we want to raise today regarding  
12 the Executive Budget.

13 Assemblyman Abbate earlier referenced  
14 some oldies but not so goodies. For those of  
15 you who have been here before, you recognize  
16 both of these -- one as it relates to the  
17 capping on the Medicare reimbursement, and  
18 the second one was eliminating the IRMAA  
19 reimbursement.

20 Senator Seward, if I could follow up  
21 quickly. What the commissioner said was  
22 accurate, but it refers only to state  
23 employees -- state retirees. There are  
24 retirees in NYSHIP who are not state

1 retirees, they're locals or they're  
2 participating agencies, state authorities,  
3 et cetera. So I just want to clarify that.

4 So those are two things the Governor  
5 proposed, both of which we opposed, you have  
6 opposed in the past, and we hope you will do  
7 so again.

8 We quickly want to touch upon some  
9 other things that have fiscal implications  
10 that we hope you will consider as you move  
11 forward.

12 The first is there is no IRMAA  
13 reimbursement for Part D prescription drugs  
14 in NYSHIP. There was a conscious decision on  
15 the part of Civil Service not to include  
16 that. NYSHIP has only been in Part D  
17 Medicare prescription reimbursement for five  
18 years, even though the program has been  
19 around for 15. So for those 10 years before,  
20 retirees had their total prescription costs  
21 reimbursed. Then when Civil Service made a  
22 decision to move into Part D because it  
23 became more advantageous, they never  
24 submitted language to amend the Civil Service

1 Law so that it could be reimbursed.

2 The second is survivors benefits. It  
3 hasn't been increased in 50 years. It's  
4 time. There have been bills for a modest  
5 reimbursement, the costs are minuscule.

6 The third one is really important, and  
7 it has to do with skilled nursing facilities,  
8 and it's probably not well known. But if you  
9 are in any NYSHIP and you are 65 and turn  
10 Medicare-eligible, you receive a lesser  
11 benefit than another participant in NYSHIP  
12 who is under 65. If you are over 65 and you  
13 need to go to a skilled nursing facility, (1)  
14 you have to stay in the hospital for three  
15 days; (2) you're only fully reimbursed for  
16 20 days. If you are under the age of 65, you  
17 are fully reimbursed for 365 days, and you do  
18 not have to spend 20 days in the hospital.

19 We have raised this with the  
20 administration, first with the Department of  
21 Civil Service, second with the Council on  
22 Health Benefits, and finally with the  
23 Department of Financial Services. We firmly  
24 believe that if you are receiving a lesser

1 benefit solely because of your age, and  
2 that's the only reason, that is age  
3 discrimination. Which they refute.  
4 So we will be coming to you,  
5 hopefully, as silly as it sounds, to say age  
6 discrimination in New York is illegal,  
7 contrary to the opinions of the Department of  
8 Financial Services.

9 Finally, we support what Barbara had  
10 said about the M/Cs. They need some help.  
11 It's only a matter of equity.

12 So in closing, we thank you for  
13 listening. We are available to take  
14 questions and, as we move forward, we hope we  
15 can discuss with you some of these issues  
16 that were not raised in the Executive Budget.

17 Thank you.

18 CHAIRWOMAN KRUEGER: Thank you.

19 Senator Jackson.

20 SENATOR JACKSON: Good evening.

21 MR. FARRELL: Good evening.

22 SENATOR JACKSON: I was saying good  
23 afternoon all afternoon.

24 But you raised the issue of age

1 discrimination --

2 MR. FARRELL: Correct.

3 SENATOR JACKSON: -- regarding the  
4 access to skilled nursing facilities. When  
5 you go the distance administratively, then  
6 you sue. Have you considered, the  
7 organization, taking legal action to sue for  
8 discriminatory practices?

9 MR. FARRELL: We have considered that,  
10 but we would prefer a legislative remedy  
11 first because it's very difficult and  
12 expensive, it takes a long period of time to  
13 sue the State of New York.

14 We think the matter is -- on its face  
15 is blatant. And it's silly, as I said, to  
16 have the Legislature have to say it is  
17 illegal to discriminate based upon age.

18 SENATOR JACKSON: Right.

19 MR. FARRELL: We would think that  
20 would be covered by the State Insurance Law.

21 SENATOR JACKSON: Sure. So -- and  
22 what about -- do you have sponsors of any  
23 proposed bills in the Senate and the  
24 Assembly?

1 MR. FARRELL: We do not have a bill at  
2 this point on the skilled nursing facilities.  
3 The prescription drug has a sponsor, the  
4 survivors benefit has a sponsor, the skilled  
5 nursing does not. And the M/C has been  
6 around -- Senator Young had it, and  
7 Assemblywoman Fahy, last year.

8 SENATOR JACKSON: Thank you. I look  
9 forward to working with you.

10 MR. FARRELL: Thank you. With you as  
11 well.

12 SENATOR JACKSON: I'm a retired  
13 government employee also.

14 MR. FARRELL: All right. Well, you  
15 should be a member.

16 CHAIRWOMAN KRUEGER: Just one  
17 follow-up question.

18 MR. FARRELL: Certainly.

19 CHAIRWOMAN KRUEGER: So when did this  
20 change, that it was a different rule if you  
21 were under 65?

22 MR. FARRELL: It's been -- it's not  
23 recent. It has been there, we think, for  
24 30 years. We have asked the department if

1 they could explain to us how this happened  
2 and when it happened, and if there were  
3 any -- is there anything in their records  
4 that they can produce as to why they thought  
5 this was a good idea.

6 The best as we can tell from people  
7 who were there is they think it's a carryover  
8 from before the Empire Plan existed. This  
9 20-day requirement is the Medicare  
10 requirement. If you are on Medicare and that  
11 is the only insurance you have, you get the  
12 20 days and you have to stay the three days.  
13 That's a federal requirement.

14 But participation in NYSHIP was always  
15 intended that it would be -- you would not  
16 lose your benefits because you went on  
17 Medicare. And there's even language in the  
18 bill jacket that when the state opted in back  
19 in the late sixties, that it said that  
20 Medicare would be in addition to any benefits  
21 you receive under the State Health Insurance  
22 Plan. And in this one instance, it's clearly  
23 not.

24 CHAIRWOMAN KRUEGER: Thank you.

1           Anyone else? Then thank you very much  
2           for your time tonight.

3           MR. FARRELL: Sure. Thank you.

4           CHAIRWOMAN KRUEGER: Next we have  
5           Martha Ponge and Harold King from the  
6           Manufacturer's Association of Central  
7           New York.

8           Are you based in Syracuse?

9           MS. PONGE: Yes, we are.

10          CHAIRWOMAN KRUEGER: Okay. So we're  
11          going to holler for Bob Antonacci to get  
12          onstage.

13          (Laughter.)

14          CHAIRWOMAN KRUEGER: Just saying.

15          MR. KING: Be careful what you wish  
16          for.

17          (Laughter.)

18          CHAIRWOMAN KRUEGER: You claim to be  
19          from Syracuse --

20          ASSEMBLYMAN BARCLAY: I'll ask the  
21          questions.

22          CHAIRWOMAN KRUEGER: All right.

23          (Laughter.)

24          CHAIRWOMAN KRUEGER: Sorry, we're all



1 a little punchy.

2 MS. PONGE: Yeah, that's all right.

3 MR. KING: I don't doubt it.

4 CHAIRWOMAN KRUEGER: Good evening.

5 MS. PONGE: Good evening, Chairs

6 Weinstein and Krueger and distinguished

7 members of the Finance Committee. My name is

8 Martha Ponge, and I serve as the director of

9 apprenticeship for MACNY, the Manufacturers

10 Association of Central New York. Our

11 organization represents over 330 employers in

12 26 counties.

13 I'm joined by Harold King, who is

14 president of the Council of Industry, located

15 in the Hudson Valley.

16 Collectively, we also represent the

17 Manufacturers Alliance of New York that

18 supports approximately 1500 manufacturers

19 across the state.

20 We want to thank you for the

21 opportunity to be here today to speak to you

22 on the continued success of the Manufacturers

23 Intermediate Apprenticeship Program, known as

24 MIAP.

1           MACNY and the alliance are committed  
2           to promoting innovative and effective career  
3           pathways to grow the number of qualified  
4           applicants in advanced manufacturing  
5           throughout our region and statewide. We are  
6           engaged in creating registered apprenticeship  
7           training programs to increase the number of  
8           mid-skill-level technicians within  
9           manufacturing.

10           We are able to do this critical work  
11           because of the legislative line item for MIAP  
12           that you provided over the past three years.  
13           And we are here requesting that we have our  
14           funding restored, as it was eliminated in the  
15           2019 and 2020 Executive Budget.

16           MIAP is designed to address this  
17           single biggest challenge that faces New York  
18           manufacturing companies, and that is  
19           workforce. The current reality is that  
20           companies face the retirement of the Baby  
21           Boomer generation and are poised to lose  
22           between 25 and 40 percent of their workforce  
23           in the next five to seven years. This  
24           shortage of skilled workers could not only

1     cripple our existing manufacturers, but it  
2     makes New York much less able to attract new  
3     business.

4             We need to intentionally and  
5     effectively disrupt this trend by finding  
6     ways to get more young people, more  
7     job-changers, more women, more minorities,  
8     those with disabilities, and our veterans  
9     into the manufacturing workforce. And we can  
10    do this through registered apprenticeship  
11    training opportunities.

12            The apprenticeship programs that have  
13    proven to be the most successful are those  
14    that are designed by employers and based upon  
15    their own needs. MIAP is targeted at raising  
16    the skill levels of incumbent manufacturing  
17    workers and creating distinctive career  
18    pathways and filling a crucial need within  
19    the industry.

20            In Central New York, our program --  
21    which has been active for about a year and a  
22    half -- has more than 30 companies who are  
23    participating in the establishment of  
24    registered apprenticeships. We have over 120

1 apprentices currently at 20 different  
2 companies. We project having a growth of a  
3 minimum of 50 additional over the coming  
4 year. In addition, our alliance partners in  
5 Rochester have over 40 apprentices, and  
6 Harold's organization has enrolled 26  
7 apprentices at 15 different companies over  
8 about the past six months.

9 To date, we have about a 98 percent  
10 retention rate in the apprenticeship program,  
11 and we're very proud of that.

12 Successful implementation of the  
13 apprenticeship program has already created a  
14 statewide need to begin to fill the pipeline  
15 even earlier with pre-apprentices.

16 Pre-apprentices will have to come equipped  
17 with stackable credentials and prepared to go  
18 directly from high school into careers in  
19 manufacturing.

20 Modern apprenticeship has two basic  
21 elements, on-the-job training and related  
22 instruction. And in the pilot program, we  
23 identified five very traditional occupations  
24 such as CNC machinist, electronics

1 technician, maintenance mechanic, toolmaker,  
2 and welder. We chose those as the most  
3 high-demand areas when we began, but since  
4 then the alliance partners have added over 15  
5 additional trades and advanced manufacturing.

6 We've also helped to establish three  
7 completely new trade outlines in advanced  
8 manufacturing, and we worked with partnering  
9 agencies to create seven new IT trades which  
10 will support our manufacturers statewide.

11 We are also currently working with  
12 Cornell University to begin apprenticeships  
13 within the dairy industry.

14 Last year the MIAP program was funded  
15 at \$750,000 for Central New York, Hudson  
16 Valley, Rochester, the Capital District, and  
17 the Southern Tier. As a result of all those  
18 positive results for MIAP, MACNY is poised to  
19 continue our efforts. But we would like to  
20 expand into New York City and into  
21 Long Island. Those two regions alone are  
22 home to over 3500 manufacturing companies.

23 We have been approached by  
24 manufacturers in these two regions asking to

1 participate, but in order to sustain our  
2 current work and to expand across the state,  
3 we would need to request a total of  
4 \$1.25 million in funding.

5 The State Department of Labor  
6 continues to be very supportive of our  
7 approach, and we continue to work with them  
8 to address the implementation of our  
9 programs. Our manufacturers know us and they  
10 trust us, and therefore we have the ability  
11 to bring hundreds and hundreds of additional  
12 small- and medium-sized companies to the  
13 table.

14 CHAIRWOMAN KRUEGER: I'll cut you off  
15 right there.

16 MS. PONGE: That's all right. Thank  
17 you for your consideration.

18 CHAIRWOMAN KRUEGER: And we appreciate  
19 that.

20 MS. PONGE: Not at all.

21 CHAIRWOMAN KRUEGER: And certainly it  
22 does help with some of the earlier testimony  
23 from the Department of Labor and others.

24 And we have --

1 CHAIRWOMAN WEINSTEIN: -- Assemblyman  
2 Bronson.

3 ASSEMBLYMAN BRONSON: Good evening.

4 MS. PONGE: Good evening.

5 ASSEMBLYMAN BRONSON: And thank you  
6 for the work you do. We've met many, many  
7 times. And the approach of bringing  
8 employers together to train a pool of  
9 potential employees shares cost, it shares  
10 collaboration, as you indicated, it's an  
11 industry-driven approach to job training with  
12 the gold standard of apprenticeship.  
13 So kudos for all you do.

14 I want to ask you about the Empire  
15 State Apprenticeship Tax Credit. So we've  
16 talked about having your employers try to  
17 take advantage of that. Could you give me a  
18 summary or how effective have employers been  
19 able to get the application for the tax  
20 credit, and if you have any numbers of how  
21 many of them have taken advantage of it?

22 MS. PONGE: I can tell you that all of  
23 the companies that are registered with us  
24 have taken advantage of the tax credit.

1 Generally when we go in and we try to discuss  
2 that we're going to have to apply for  
3 something, it's kind of like, arghh, how much  
4 paperwork? They have all said this is one of  
5 the easier initiatives to apply for and one  
6 of the easiest to provide documentation for,  
7 so they are all very much -- very grateful  
8 for what you've done to provide that for  
9 them.

10 ASSEMBLYMAN BRONSON: Excellent. I'm  
11 so glad that we were able to get that in such  
12 a way that it made it accessible and easy to  
13 maneuver through.

14 The second piece was the Cornell  
15 agriculture piece, and I'm so glad that we  
16 were able to get you guys connected. Where  
17 do you stand with moving an apprenticeship  
18 program forward for the Ag industry?

19 MS. PONGE: On February 14 we'll be  
20 meeting with six of the top dairy producers  
21 in the state. They're coming with Cornell to  
22 hear about how we can partner so that Cornell  
23 can do the dairy education and we can provide  
24 the technical training that they need.



1           If the dairy industry does not start  
2           to produce some of its own technicians for  
3           their automated machines, they're not going  
4           to be able to stay in New York State.

5           ASSEMBLYMAN BRONSON: Okay. Well,  
6           please keep me informed about that. And any  
7           way I can be helpful, don't hesitate to call.  
8           Thank you.

9           CHAIRWOMAN KRUEGER: Thank you. Thank  
10          you very much for your testimony.

11          MS. PONGE: Appreciate it.

12          CHAIRWOMAN KRUEGER: And our last  
13          testifiers tonight, Professional, Scientific,  
14          and Technical Collective Bargaining Unit,  
15          Nikki Brate and Penny Howansky.

16          Is there anyone else here who thinks  
17          they're supposed to be testifying? This is  
18          the last one in my book. See, no one else  
19          came forward. Okay.

20          Good evening.

21          MS. BRATE: So, good evening  
22          Madam Chair, distinguished members of the  
23          New York State Legislature, guests, fellow  
24          New York State employees. I just want to

1 take a really quick moment and give you a  
2 sincere thank you for actually allowing  
3 others other than the collective bargaining  
4 representatives to speak, because I think  
5 it's necessary sometimes that you get another  
6 view on some of the changes that are being  
7 proposed within the Taylor Law.

8 I'd really like to thank you for your  
9 commitment and your progressive stances on  
10 making sure that labor is not under attack,  
11 you know, by outside forces. But sometimes,  
12 you know, we have to look within. Sometimes  
13 there are issues that we can no longer hide  
14 our heads in the sand and we have to  
15 recognize. So that's setting the stage for  
16 my conversation.

17 You know -- as you know, I believe  
18 that the intent of the Taylor Law was  
19 enacted -- really was a mechanism to resolve  
20 conflicts between individuals, employers,  
21 employee organizations, and so on and so  
22 forth. And the changes of late have only  
23 really taken into consideration the needs of  
24 the labor organization itself, while at times

1 ignoring the actual New York State collective  
2 bargaining units' employees' needs.

3 Specifically, recent amendments to the  
4 Taylor Law really took away the right to fair  
5 union representation from certain New York  
6 State employees. Due to the amendment,  
7 New York State employees must now either join  
8 and pay dues or give up their right for  
9 representation. There is no other choice.

10 This would be similar to asking a person  
11 under arrest to either pay for representation  
12 or have none at all. Which, you know -- as  
13 we all know -- it's unconstitutional.

14 There's a reason I'm saying that.  
15 It's assumed that someone may not want to  
16 join the union because they want to be a  
17 freeloader. That's a really broad assumption  
18 and simply an unfounded assumption that has  
19 been made. When we kind of move forward and  
20 look -- and I know that the spirit and the  
21 intent of the collective bargaining unit  
22 really was to allow for representations of  
23 all, but they all say the misconception that  
24 those that don't pay are the freeloaders,

1 want representation without paying for it --  
2 we believe that term is insulting to those  
3 employees that a properly designed,  
4 well-represented study would show that view  
5 to be incorrect.

6 Again, using the example given above,  
7 if someone was arrested and cannot afford  
8 representation, does that make them a  
9 freeloader? No. And if you kind of look at  
10 some of the things you heard today, somebody  
11 that is brand-new coming into the workforce,  
12 and we've asked Civil Service for forgiveness  
13 on perhaps paying exam fees, well, there  
14 could be circumstances where they don't or  
15 are not able to. But that doesn't mean they  
16 are freeloaders, and they shouldn't be  
17 framed -- and it's really causing havoc in  
18 the workplace.

19 Which brings me to the disclosing of  
20 personal identifiable information. You know,  
21 in addition to the proposed changes to the  
22 Taylor Law that would make it improper  
23 practice for New York State public employers  
24 to disclose personal, private identifying

1 information to the outside public -- we thank  
2 you for recognizing that. However, despite  
3 the above, the budget also proposes a change  
4 to the Taylor Law that would require, at the  
5 request of the union, that the state provide  
6 all public employees' names, addresses, job  
7 titles, employing agency or department and  
8 work location for those in the collective  
9 bargaining unit.

10 Because of the data breaches that  
11 happened at a specific unit -- and I've got  
12 to tell you, I've got to really say -- this  
13 pains me, because I am a unionist. But  
14 because of the harm that data breaches have  
15 caused, there are some that cannot have their  
16 name and phone number released. There aren't  
17 orders of protection. 911 has had them and  
18 called.

19 And for the state to just pass this  
20 information -- because that is the collective  
21 bargaining unit that we're assigned to  
22 because we want to be New York State public  
23 servants -- there has to be, must be some  
24 protections for the employee from the union.

1           We can't hide our heads anymore and  
2   say union abuse doesn't exist. We can't hide  
3   our heads and say that there isn't violence  
4   going on in the union, because I'm sure some  
5   of you are aware, and I'm sure many of you  
6   have seen many a Times Union article that  
7   there is conflict within the employee  
8   organization and the collective bargaining  
9   unit itself. It's not harmonious.

10           And for anybody to sit here and think  
11   that it is, that's just completely saying  
12   that we don't need unions to create a  
13   harmonious workforce within the agencies. I  
14   mean, there has to be both ways gone at.

15           Specifically, and I didn't want to  
16   have to be --

17           CHAIRWOMAN KRUEGER: Can you --

18           MS. BRATE: -- put into this position,  
19   but we have to ensure that when our data is  
20   collected by New York State, that it's  
21   protected. And sometimes it needs to be  
22   protected from the union. We need to make  
23   sure that our data is going to be used for  
24   the purposes intended to. And that hasn't

1     been the case.

2             We have had current unions charging  
3     our employees, our unionists, with falsely  
4     accusing people of sexual harassment. We  
5     have had our EOL, our contract, used to  
6     discipline the very members that it is  
7     supposed to represent. We have had our  
8     contract used for purposes of employment  
9     versus representation. And these are things  
10    that really have to be looked at as we move  
11    forward and continue to make dramatic changes  
12    to the Taylor Law.

13            And one of the biggest reasons I say  
14    this is that we have an opportunity to make  
15    this right because there's a lot of other  
16    cases coming up at the Supreme Court that  
17    actually are going to target exclusive  
18    representation. I don't want to lose that.  
19    But at the same time, I want to recognize  
20    that the employees deserve just as much  
21    consideration by virtue of being a New York  
22    State employee and being placed in that  
23    collective bargaining unit. And our data  
24    should not be used for any other purposes,

1 and we need protections and assurances that  
2 it won't be.

3 CHAIRWOMAN KRUEGER: Thanks for your  
4 testimony.

5 I also hope you were listening when I  
6 was asking the commissioner of GOER about the  
7 new procedures for filing complaints if  
8 you're a state agency worker, and it might be  
9 worthwhile to test out that complaint system  
10 to see whether there's anything working in  
11 that.

12 MS. BRATE: That was tested out. And  
13 because the union itself is a nonprofit  
14 organization, it's difficult. And this is  
15 where you guys are going to find yourselves  
16 in a dilemma. They're saying it's related to  
17 the union. I argued that being a New York  
18 State employee, that is an extension of my  
19 workplace. So if I have to attend a  
20 meeting -- so you have -- we have a little  
21 bit of a dilemma there.

22 CHAIRWOMAN KRUEGER: Right. And I  
23 don't know the answer to that, and I'm going  
24 to have to cut you off tonight.



1           Were there any other questions?

2           So thank you very much for your

3 testimony.

4           MS. BRATE: Thank you.

5           CHAIRWOMAN KRUEGER: And it will be

6 part of the entire record of the hearing.

7           And I thank everyone for staying. I

8 don't know who you other people are here

9 hanging out, but go home and come back 9:30

10 tomorrow morning. And it will be a Health

11 budget hearing that will make this seem like

12 a very short day.

13           (Laughter.)

14           CHAIRWOMAN KRUEGER: Thank you all.

15           (Whereupon, the budget hearing concluded

16 at 7:07 p.m.)

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