

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

2 -----

3 JOINT LEGISLATIVE HEARING

4 In the Matter of the
5 2020-2021 EXECUTIVE BUDGET
ON TAXES

6 -----

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

9 February 13, 2020
3:12 p.m.

10

11 PRESIDING:

12 Senator Liz Krueger
Chair, Senate Finance Committee

13 Assemblywoman Helene E. Weinstein
14 Chair, Assembly Ways & Means Committee

15 PRESENT:

16 Assemblyman Edward P. Ra
Assembly Ways & Means Committee (RM)

17 Assemblywoman Sandy Galef
18 Chair, Committee on Real Property Taxation

19 Senator Brian A. Benjamin
Chair, Senate Committee on Revenue and Budget

20 Assemblywoman Inez Dickens

21 Senator Diane J. Savino

22 Assemblyman Edward C. Braunstein

23

24 Senator Elizabeth O'C. Little

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1 CHAIRWOMAN WEINSTEIN: Thank you.
2 Good afternoon. I'm Helene Weinstein, chair
3 of the New York State Assembly's Ways and
4 Means Committee and cochair of today's
5 hearing.

6 Today we begin the 13th in a series of
7 hearings conducted by the joint fiscal
8 committees of the Legislature regarding the
9 Governor's proposed budget for fiscal year
10 2020-2021. It is also the last hearing that
11 we will be conducting as joint committees for
12 this budget.

13 We were here at -- till 11:45
14 yesterday. The Public Protection hearing
15 went over 14 hours. So just forgive us if we
16 get a little giddy as the afternoon goes on.

17 COMMISSIONER SCHMIDT: I'll only take
18 10 hours.

19 (Laughter.)

20 CHAIRWOMAN WEINSTEIN: Okay. Not a
21 problem. It will seem like a breeze.

22 The hearings are conducted pursuant to
23 the New York State Constitution and the
24 Legislative Law.

1 Today -- as I think people know, this
2 afternoon we will be hearing testimony
3 concerning the Governor's budget proposal for
4 taxes.

5 Let me just introduce, since we've had
6 some shifting of members, the members from
7 the Assembly who are here. Chair of our Real
8 Property Tax Committee, Assemblywoman Galef.
9 Assemblyman Braunstein. Assemblywoman
10 Dickens has stayed with us.

11 Senator Liz Krueger, chair of Senate
12 Finance, will introduce her members.

13 CHAIRWOMAN KRUEGER: Great.

14 Diane Savino has stayed with us. We
15 have been joined by Senator Betty Little, and
16 we've been joined by Brian Benjamin, the
17 chair of our Revenue Committee.

18 CHAIRWOMAN WEINSTEIN: And our ranker,
19 the Ways and Means ranker, Assemblyman Ra, is
20 here with us also.

21 And just for people who may have just
22 come into this hearing, and perhaps members
23 who haven't been here before, we have these
24 countdown clocks. For the witnesses, that's

1 the time for you to make your presentation.
2 The government witnesses, the commissioner,
3 will be 10 minutes. All other nongovernment
4 witnesses, you have five minutes.

5 The chair of the Tax Committee will
6 have -- and Ways and Means will have
7 10 minutes to ask questions of the
8 commissioner. Beyond that, when we get to
9 nongovernmental witnesses, it's three
10 minutes -- five minutes for presentation,
11 three minutes for members.

12 And just to remind really the members
13 and the witnesses that the three-minute time
14 frame is for both questions and answers. And
15 we'll have another little warning for people
16 once we get on to the nongovernmental
17 witnesses.

18 But right now I'm pleased to welcome
19 Michael Reed Schmidt, commissioner, New York
20 State Department of Tax and Finance. And
21 thank you for adjusting your schedule so that
22 you could be with us starting two hours after
23 we optimistically told you to be here.

24 Please begin, Commissioner.

1 COMMISSIONER SCHMIDT: Thank you,
2 Chair Weinstein, Chair Krueger, members of
3 the committee.

4 My written testimony is in front of
5 you, and it outlines a set of important
6 initiatives we have ongoing at the Tax
7 Department focused on improving the taxpayer
8 experience. But in light of your time
9 constraints, I just want to offer up top a
10 brief reflection on why I believe those
11 initiatives to be so important.

12 Since I became commissioner of the Tax
13 Department last June, I've been struck by the
14 sheer scale of the department's operations.
15 We process 26 million tax returns every year.
16 We issue 10 million refunds. We answer 5
17 million phone calls. We send 17 million
18 pieces of mail.

19 And I think for people in our role,
20 it's too easy to think about those numbers as
21 statistics. Because the person on the other
22 end of a letter that we send, that is a
23 cousin, an uncle, a friend, an aunt. And we
24 have to recognize that for them, interacting

1 with the Tax Department is serious business.

2 It can even be a life-changing experience.

3 So I believe in that context we really
4 do have a moral obligation to constantly be
5 analyzing how we do our business from the
6 perspective of the taxpayer.

7 And that's why we have undertaken an
8 important set of initiatives, from expanding
9 our use of text and email communication to
10 enhancing our use of data analytics to
11 revamping our written correspondence program.

12 And it's also why I'm very pleased
13 that the Governor's Executive Budget this
14 year includes a number of important
15 initiatives geared towards enhancing fairness
16 for New York's taxpayers.

17 It expands the child tax credit for
18 children below 4 years old. That closes an
19 important hole, I think, in that law. It
20 expands access to the Earned Income Tax
21 Credit program. It continues the phase-in of
22 the Governor's middle-class tax cuts. It
23 cuts taxes for small business.

24 So there are many proposals in this

1 year's Executive Budget, and I look forward
2 to taking your questions on them or on
3 anything else about the agency.

4 But before I do that, before I turn it
5 over, I do want to use my time to highlight
6 one particular initiative we have underway at
7 the department. It relates to how your
8 constituents file their taxes.

9 We have an arrangement, the Tax
10 Department has a longstanding arrangement
11 with tax software providers whereby those
12 providers provide free-file software services
13 to taxpayers making below \$69,000.

14 And the issue is that millions of
15 people in the state are not aware of this
16 free-file opportunity. And while for many
17 people it makes sense to pay for tax software
18 or pay for a tax preparer, for a lot of
19 people it just doesn't make sense. And so
20 we're undertaking an aggressive campaign this
21 year to promote that program.

22 There are some promotional materials
23 that we've included in our written testimony
24 for you, and I would be pleased if you would

1 consider sharing those materials with your
2 constituents as part of this effort.

3 So again, thank you for your time
4 today, and I look forward to taking your
5 questions.

6 CHAIRWOMAN WEINSTEIN: Thank you.

7 We're going to go to Sandy Galef,
8 chair of our Property Tax Committee.

9 ASSEMBLYWOMAN GALEF: I don't know
10 whether -- is this on? I guess it is. Yes.

11 You know, we keep having this change
12 in the STAR program. You haven't been here
13 this whole time, but we went from \$500,000 to
14 \$250,000, and this year you're talking about
15 \$200,000, with not allowing people to have it
16 credited to their school tax bill.

17 What's the goal here? Where are we
18 going? What's going to be happening next
19 year?

20 COMMISSIONER SCHMIDT: So the
21 Executive Budget proposal you reference would
22 shift people who make between \$200,000 and
23 \$250,000 into the credit program from the
24 exemption program. So they're still getting

1 their benefit, they're just getting it as a
2 check that comes before their school taxes
3 are due.

4 I think, as you know, there's been for
5 the last several years a gradual shift from
6 the exemption program into the credit
7 program. It started with people who buy new
8 homes, right, they were in the credit
9 program, and then last year it included
10 taxpayers who make between \$250,000 and
11 \$500,000.

12 We were able to administer that
13 transition I think very successfully. We
14 were able to identify the affected property
15 owners, we were able to identify those who we
16 could verify were eligible for the STAR
17 program. And for those, they just received a
18 letter and we let them know you're registered
19 in the credit program, you're going to
20 receive a check for the amount of your STAR
21 program -- for the amount of your STAR
22 benefit.

23 And then for a smaller number, they
24 had to come in and provide additional

1 information so that we could verify their
2 eligibility.

3 With respect to your question what is
4 the overall goal here --

5 ASSEMBLYWOMAN GALEF: What's our plan
6 in 2021?

7 COMMISSIONER SCHMIDT: Well, I would
8 say --

9 ASSEMBLYWOMAN GALEF: To keep rolling
10 back?

11 COMMISSIONER SCHMIDT: So this year's
12 Executive Budget has this additional
13 transition. So if enacted, the plan would be
14 to again basically use the same process we
15 used last time. I think we could -- you
16 know, last time was the first time we used
17 it. I think we'll make process improvements
18 even on what we did last year, which again I
19 think was successful.

20 But the vast majority of affected
21 taxpayers will simply be automatically
22 enrolled into the credit program. So they
23 won't have to do anything. They'll receive
24 their benefit as a check instead of --

1 ASSEMBLYWOMAN GALEF: I guess what I'm
2 trying to get at, I think the Governor is
3 just trying to get one program off of
4 expenditures and into revenues. So my
5 concern is that you're going to continue,
6 next year it's going to be at 150,000.

7 Do you have a quick answer to that?
8 I'm looking at the time, and it's going very
9 fast.

10 COMMISSIONER SCHMIDT: I have no
11 insight into what next year's budget is going
12 to be.

13 I think -- with respect to the broader
14 transition, I can say that as -- you know,
15 from my perspective as a state tax
16 administrator for a large tax program, which
17 is what STAR is, it makes a lot of sense to
18 have a statewide perspective in the
19 administration of the program. This is a
20 program that has 3 million property owners in
21 it. It's a several billion dollar program.
22 I mean, we at the department have access to
23 information to ensure the integrity of the
24 program that just simply, you know, isn't

1 available at the local level. And the local
2 assessors do --

3 ASSEMBLYWOMAN GALEF: All right. We
4 learned at another hearing that only 2,000
5 people changed from having it off their
6 school tax bill into getting a check in the
7 mail. So I don't think it's popular to move.

8 But I have another question about the
9 late -- the issue of people getting the STAR
10 program that haven't paid their taxes. How
11 are you going set up that system for us?

12 COMMISSIONER SCHMIDT: So the issue,
13 as you highlight, was raised over the summer,
14 which is that the current law suggests that
15 people who don't pay their property taxes in
16 the current year shouldn't get a STAR
17 benefit. Of course the STAR check goes out
18 before they pay their property taxes, so
19 there's an inherent contradiction there.

20 So what the proposal does is it says
21 that for anyone who has past delinquencies of
22 greater than one year, they wouldn't get
23 their STAR benefit.

24 So the way that would work in broad

1 outline is that the county property tax
2 officials would share the list of
3 delinquencies outstanding for more than one
4 year with the department. The department
5 would then engage these taxpayers. We would
6 let them know that unless they pay their
7 property taxes, they're not going to get a
8 property tax credit, a STAR exemption or a
9 STAR credit.

10 ASSEMBLYWOMAN GALEF: How are you
11 going to get that information from the local
12 governments?

13 COMMISSIONER SCHMIDT: The legislation
14 would require the counties to provide that
15 information.

16 ASSEMBLYWOMAN GALEF: So we're going
17 to have other legislation that's going to
18 come along on this.

19 COMMISSIONER SCHMIDT: No, that's
20 included in the Executive Budget proposal.

21 ASSEMBLYWOMAN GALEF: Okay. You are
22 going to abolish the State Board of Real
23 Property Tax Services. Why are we doing
24 that? I know we're supposed to have five

1 members; we only have at this point two or
2 three -- three. And can there be a fair
3 system in place if there's not another body
4 determining the different tax cases?

5 COMMISSIONER SCHMIDT: I think so.
6 The State Board of Property Tax Assessors,
7 they do really great work. This is not a
8 criticism of the work that they've done. It
9 used to be a body that had a broader
10 jurisdiction. And it's an unpaid position,
11 it's a position that requires regular travel
12 to Albany, and we've struggled, frankly, to
13 fill seats.

14 And in that context, the basic
15 business of the commission can be hard to
16 execute because if you're missing one person,
17 you don't have a quorum. Right? So there's
18 -- it just becomes kind of hard to do the
19 business.

20 I do think we can ensure fairness in
21 the structure envisioned in the Executive
22 Budget. I think -- it's a -- the provision
23 for an appeal to the commissioner is a common
24 administrative remedy across the state. It's

1 consistent with the administration of other
2 programs we have at the department and other
3 programs at other agencies.

4 So yes, I do think we can continue to
5 administer the duties of the board with
6 fairness.

7 ASSEMBLYWOMAN GALEF: I've got a few
8 more minutes, don't I? Okay.

9 Modernize and merging your real
10 property tax forms and processes. The
11 Executive is proposing to combine the
12 property tax transfer form and the real
13 estate transfer tax form into a consolidated
14 form.

15 Do you have a timetable how long it
16 would take to develop and implement this
17 system? And how are you going to use the
18 E-signature verification program?

19 COMMISSIONER SCHMIDT: I do not have a
20 timetable.

21 What I can say is the broad issue with
22 the legislation is that -- or the issue that
23 the legislation seeks to solve is that there
24 are currently two different forms that are

1 associated with real property transactions.
2 And currently there's just a lot of
3 inefficiency with two paper forms coming in.

4 And we'd like to make that process
5 electronic and we'd like to merge them
6 together so that from a taxpayer experience
7 perspective, it doesn't feel like you're
8 doing duplicative work, it feels like there's
9 one thing you have to do and you're able to
10 comply with it.

11 I think the nuance that the
12 legislation tries to comprehend is the fact
13 that one of the forms is protected by tax
14 secrecy law and the other is not. And so
15 there's some information that -- you know, we
16 don't want to create any inadvertent
17 exemptions from tax secrecy as a result of
18 merging the forms, or make other information
19 not available as a result of merging the
20 forms.

21 So there's provision in the
22 legislation for continuing tax secrecy
23 protections for the information that
24 currently has those protections.

1 ASSEMBLYWOMAN GALEF: I'd just like to
2 go back to the basic STAR. And have we done
3 a cost analysis as to how much it costs to
4 send out all these checks, many more now, as
5 opposed to just having it taken right off
6 your school tax bill?

7 COMMISSIONER SCHMIDT: I don't have a
8 budget figure for you with respect to, you
9 know, the internal costs of agency
10 operations. I can say that we manage it
11 effectively within the department's budget.

12 We have done a cost analysis to
13 understand how much money we're saving the
14 state through the information checks that we
15 are able to do at our disposal with respect
16 to the basic STAR program -- or the STAR
17 credit program, and that total is
18 \$18 million.

19 And again, that's because we have
20 information at our disposal. We know if
21 there's a married couple that has two homes
22 and they're claiming two STAR exemptions,
23 we're able to identify that. If someone
24 moves but doesn't sell their initial home,

1 we're able to identify that. If someone
2 moves to another state, we might be able to
3 identify that.

4 So between all those efforts, we're
5 able to I think protect the integrity of the
6 program and work with our partners in the
7 assessment community to ensure that people
8 getting their STAR benefits are entitled to
9 those benefits under the law.

10 ASSEMBLYWOMAN GALEF: Commissioner,
11 can we get an analysis done of what it's
12 costing you? Because the public doesn't like
13 it. It's easier the other way. And I don't
14 know why we keep changing it.

15 So if you could please get us how much
16 it costs to send out all these checks. Thank
17 you.

18 COMMISSIONER SCHMIDT: Sure. Yeah,
19 happy to do that.

20 CHAIRWOMAN WEINSTEIN: Thank you.
21 Senate?

22 CHAIRWOMAN KRUEGER: Thank you.

23 The chair of our Revenue Committee,
24 Brian Benjamin.

1 SENATOR BENJAMIN: Thank you, Madam
2 Chair.

3 Commissioner Schmidt, thank you for
4 being here.

5 I'm going to jump right into it.
6 Let's start with the Excelsior tax credit
7 program, which you're proposing to extend for
8 another 15 years at the cost of \$200 million
9 per year.

10 Can you give me a sense of how many
11 jobs -- well, take a step back. How many
12 jobs has the tax credit program facilitated
13 since its inception? And just a sense of how
14 you'd look at success. How do we know this
15 is being successful or not? Obviously you
16 must believe it's successful if you want to
17 extend it another 15 years. But walk us
18 through your logic as to how you came up with
19 this proposal.

20 COMMISSIONER SCHMIDT: Thank you for
21 that question. I'm going to be honest, I
22 don't have those figures at my disposal. The
23 program is administered by Empire State
24 Development. We have -- at the department we

1 have a role in obviously paying out the
2 credits once they've been certified by ESD,
3 but our role really is limited to that.

4 My understanding is that the expansion
5 or the extension of the program has to do
6 with the fact that under the economic
7 development arrangements that ESD makes, they
8 make long-term commitments. And so having
9 some certainty in the program with respect to
10 the availability of the credit in the
11 outyears actually enhances the strength of
12 the program, its ability to create jobs
13 today.

14 But again, in terms of the specifics
15 of how the program has been implemented, I
16 don't have specifics for you.

17 ACTING PRESIDENT BENJAMIN: So -- just
18 so I'm clear on your answer. So basically
19 the way it works is ESD administers this
20 program, and I guess the Department of
21 Taxation is more of a pass-through? Like how
22 does that --

23 COMMISSIONER SCHMIDT: Yes. So the
24 ESD board will -- they will decide to award

1 credits to a project. And then as the
2 project meets its milestones, they will, you
3 know, approve those credits, pay them out.

4 Once the taxpayer has that certified
5 from ESD, they're able to come into the
6 Tax Department, in conjunction with their
7 annual tax filings, for example, and receive
8 the credit as a reduction in taxes or a
9 refund or what have you.

10 But the kind of certification and
11 analysis really is with ESD structurally.

12 SENATOR BENJAMIN: Okay, so let's move
13 on. Am I to assume the film tax credit
14 operates the same way?

15 COMMISSIONER SCHMIDT: It does. I
16 will say that --

17 SENATOR BENJAMIN: I'm at the wrong
18 hearing, huh?

19 (Laughter.)

20 CHAIRWOMAN KRUEGER: You just missed
21 them.

22 SENATOR BENJAMIN: I know.

23 COMMISSIONER SCHMIDT: Yeah, it's
24 actually not true for every credit. I mean,

1 there are some credits where the department
2 has more of a role in auditing and
3 determining eligibility. But for film
4 credit, for Excelsior, those really are with
5 ESD.

6 SENATOR BENJAMIN: All right. So
7 let's move on, because I'm pretty sure you
8 have an answer for me on the Empire State
9 child credit, correct?

10 COMMISSIONER SCHMIDT: Yes. Well, I
11 hope so.

12 SENATOR BENJAMIN: Okay, great. I am
13 so excited to hear that.

14 So let's talk about this for a second.
15 So in your proposal you did not cover all of
16 the income that is covered with the federal
17 child tax credit, so you could have a
18 scenario, for example, where a parent has a
19 3-year-old and a 5-year-old, they're getting,
20 you know -- and they're not able to get the
21 state tax credit on one child but they can
22 get it on another child.

23 Why did you make the decision to sort
24 of cap the income at 50,000?

1 COMMISSIONER SCHMIDT: So that
2 basic -- and I'll kind of get back to your
3 question, but that basic issue of the
4 disconnect between the federal and the state
5 credit, that actually goes back to the
6 federal tax reform in 2017.

7 In 2017 there was an expansion of the
8 federal tax credit, which both expanded the
9 federal child tax credit but made it eligible
10 -- made it available to higher-income people,
11 I think up to \$400,000 in that instance --

12 SENATOR BENJAMIN: That's right.

13 COMMISSIONER SCHMIDT: -- and the
14 state law didn't conform to that.

15 So we were already kind of anchored on
16 a previous version of the federal credit.
17 And then as you point out, this expansion
18 really for this year focuses on -- of that
19 population, those families that make less
20 than \$50,000 every year.

21 I think one of the real benefits of
22 the child tax credit program is that it is a
23 mechanism for addressing child poverty, the
24 needs of low-income children, the needs of

1 low-income families. And so the proposal as
2 drafted really is focused on that population.

3 SENATOR BENJAMIN: Well, I will say --
4 listen, you know, children under 4 tend to be
5 more expensive than children over 4. I mean,
6 obviously, kids are expensive across the
7 board. But as a new dad, I will tell you, a
8 1-year-old is not cheap.

9 And so it just seems to me that -- and
10 I think -- I was told it would have cost
11 another 66 million to sort of cover the delta
12 between the federal credit and the state
13 credit. And I'm not sure why you guys didn't
14 just do that. I mean, this is 157 million;
15 another 66 --

16 COMMISSIONER SCHMIDT: That's
17 certainly a conversation that could be
18 undertaken in the context of budget
19 discussions.

20 I will say, just to piggyback on your
21 point about young children being most
22 expensive, it's also young children who --
23 and this is why I think this proposal is so
24 important -- it's young children who need the

1 support most. I mean, there's economic
2 research about how 1 year old, 2 year old, 3
3 year old kids, that's when your brain is
4 developing, right? That's when interventions
5 are most important from a public policy
6 perspective.

7 And so I think closing a gap where the
8 kids who don't -- who are zero to three don't
9 get it, I think it's a very positive step.

10 SENATOR BENJAMIN: Sure. All right,
11 let's move on to the long-term insurance
12 credit.

13 Can you just talk to me about what is
14 the average cost for long-term insurance? Do
15 you know that?

16 COMMISSIONER SCHMIDT: The -- the
17 aggregate fiscal for the credit now, under
18 current law, I believe is around \$90 million
19 per year.

20 SENATOR BENJAMIN: Right. No, no, I'm
21 sorry. Let's just break this down to per
22 case, right?

23 So I believe that 20 percent of
24 premiums are paid --

1 COMMISSIONER SCHMIDT: Correct.

2 SENATOR BENJAMIN: And no income limit
3 presently is --

4 COMMISSIONER SCHMIDT: Currently
5 there's no income limit and there's no cap on
6 the overall value of the credit.

7 SENATOR BENJAMIN: Correct.

8 COMMISSIONER SCHMIDT: And that makes
9 our program I think one of the most generous
10 in the nation, if not the most generous in
11 the nation.

12 SENATOR BENJAMIN: Right. So my
13 question for you is, what is that average
14 spend per case?

15 COMMISSIONER SCHMIDT: I do not have
16 that specific answer for you.

17 I can say, in terms of what this
18 proposal would do, it's a 20 percent credit.
19 The cap on the credit is \$1500, which would
20 mean that the credit would still fully
21 support up to 20 percent of the cost of
22 annual premiums of up to \$7500. Which is
23 still, you know, a meaningful amount every
24 year for those families.

1 SENATOR BENJAMIN: Yeah, the problem
2 is I don't have any way to put that in
3 perspective because I don't know what the
4 average cost is in general, so then how do I
5 know whether --

6 COMMISSIONER SCHMIDT: Yeah, I think
7 that's a good question.

8 SENATOR BENJAMIN: -- this \$1500 cap,
9 is that meaningful or is that like
10 irrelevant? I don't know how to describe it.

11 COMMISSIONER SCHMIDT: I think it's
12 the average cost -- we'd have to look at
13 it -- I mean, just from my own personal
14 involvement with understanding long-term
15 care, when you buy long-term-care insurance
16 in your life, the cost will shift
17 dramatically, right? So for someone closer
18 to retirement, it's going to be more
19 expensive to provide that -- to purchase that
20 insurance than for someone earlier in their
21 life.

22 SENATOR BENJAMIN: Well, these
23 premiums, from what I understand -- and, you
24 know, I don't have someone in my family who

1 has one -- at least I don't know about it. I
2 hear these are very big numbers. So I would
3 like to get some more information on what
4 we're really talking about here.

5 Now let's move on to the extend a year
6 -- I'm sorry, extend Hire a Vet, the tax
7 credit.

8 Now, it's come to my attention that
9 the extend -- that credit is underutilized.
10 Can you talk a little bit about what's -- you
11 know, what you're seeing in terms of -- you
12 know, obviously we want to make sure, you
13 know, we incentivize businesses to hire our
14 vets, particularly disabled vets. And it's
15 come to my attention that, you know, we're
16 not fully maximizing the program, or at least
17 the credit is not fully subscribed.

18 So I would like to get a sense of what
19 are you seeing on that issue.

20 COMMISSIONER SCHMIDT: I guess -- I
21 don't really know what the dynamics are in
22 terms of why the underutilization is there.
23 I can say that -- I think our understanding
24 is also there's not a ton of utilization of

1 this program. It can be a valuable program
2 available for the support of hiring qualified
3 veterans. So I'd be happy to engage in a
4 dialogue to think about is there stuff -- is
5 there anything we can do to promote it so
6 that it's having the intended effect.

7 SENATOR BENJAMIN: I mean, you're
8 proposing to extend it for two years, someone
9 must think it's working. And so I'm just
10 trying to understand, if it's working, why is
11 it not being fully utilized?

12 COMMISSIONER SCHMIDT: Well, I think
13 it is working for the individuals it is
14 supporting. I mean, it is being used to
15 support individuals, so you wouldn't want to
16 pull the rug out from under the program to
17 the extent it is working. But I do think
18 there's capacity for growth.

19 SENATOR BENJAMIN: All right. Well, I
20 would definitely like to get a better sense
21 on what your -- you know, what you think is
22 the reason why it's not being fully utilized
23 and what we can do to make sure that
24 businesses know that this tax credit is out

1 there or that veterans know that it's out
2 there.

3 So I guess, you know, in terms of
4 making it more successful -- well, is this
5 run out of your department or is this run out
6 of --

7 COMMISSIONER SCHMIDT: I'm trying to
8 think right now. I believe it's an
9 as-of-right credit. Which basically means if
10 an employer hires a qualified veteran,
11 they're able to claim it. I don't think
12 there's an agency that's responsible for
13 administering it. But I could be wrong about
14 that, so we'll have to get back to you.

15 SENATOR BENJAMIN: All right. Well,
16 if you let me know, that would be great.

17 CHAIRWOMAN KRUEGER: Thank you.
18 Assembly.

19 CHAIRWOMAN WEINSTEIN: We go to
20 Assemblyman Ra.

21 ASSEMBLYMAN RA: Thank you.

22 One of the things that was changed
23 last year was the internet sales tax. And I
24 know it's been hard to get data because it

1 doesn't get broken out. Is there any
2 indication of how -- you know, by county, how
3 much additional revenue came in as a result
4 of that?

5 COMMISSIONER SCHMIDT: We've taken a
6 look on it. As you point out, one of the
7 challenges is that when a company comes in,
8 they don't necessarily come in and say, Hey,
9 we're here because of the new law, we're here
10 because of the changes in the law. We have
11 to undertake an analysis to try to get a
12 sense for what the new internet sales tax
13 laws have really driven.

14 And there are two kind of changes to
15 the law with respect to both remote vendors
16 and with respect to the online marketplace
17 legislation that was enacted last year.

18 So we have seen a significant uptick
19 in registrations overall than we normally see
20 on a year-to-year basis. I believe the
21 number is around 1500 new -- you know, an
22 increase in registrants around that amount
23 compared to what we normally see.

24 And then the question becomes, okay,

1 what does that mean from a revenue
2 perspective. The budget last year projected
3 that the fiscal for this year would be around
4 300 million for local governments, 240
5 million for the state. And it seems that
6 we're on track to meet if not exceed those
7 projections.

8 But again, putting a specific number
9 on it is a little bit tricky, but just
10 because of the way -- the nature it comes in.

11 With respect to individual counties
12 who are interested in understanding how the
13 law might have benefited them, if they have
14 some information at their disposal, we'd be
15 happy to work with individual counties to
16 help them understand.

17 ASSEMBLYMAN RA: Yeah, I mainly asked
18 regarding the individual counties because, as
19 I'm sure you're aware, the AIM payments which
20 were formerly made by the state are now the
21 responsibility of the counties, and it's
22 supposed to come from that piece of revenue.

23 My county that I represent has three
24 of the largest townships in the state if not

1 country, and many large villages, so it does
2 have a fairly large share of that.

3 I want to go back to the STAR changes
4 for a second. So to be honest, in my
5 conversations with constituents in terms of
6 people that are in that group that kind of
7 could switch over but weren't automatically
8 being switched over and kind of have that
9 incentive of the growth, they were confused
10 as all heck as to whether or not they should.

11 And, you know, I got a lot of calls in
12 the office from people asking for advice, and
13 you kind of walk them through what the merits
14 of it were because, you know, I didn't want
15 any -- the easy answer is, well, it will grow
16 in the future if you switch, so why not. But
17 they also had to be aware that it could
18 impact them in terms of having to, you know,
19 pay that money up front and get it back later
20 on, as opposed to just not seeing it on their
21 property tax bill.

22 So if this happens in this budget and
23 that number goes down -- and I certainly
24 agree with my colleague that that's probably

1 the long-term goal, that it's going to keep
2 going down until eventually everybody gets
3 transitioned to it. What has the department
4 learned this year that maybe that could be
5 put into play to make sure the homeowners of
6 the state have adequate information to make
7 the determination that's best for them?

8 COMMISSIONER SCHMIDT: Well, I
9 think -- I think there are two issues that
10 can be discussed in the context of your
11 question.

12 One is the reduction of the income
13 limit from the 250 to 200. And again, for
14 those individuals, they would be required to
15 receive the credit, as opposed to receiving
16 the exemption. And so our job as a
17 department would be to make sure we are able
18 to get those folks in as smoothly as
19 possible.

20 And as I indicated earlier, I do
21 believe we were able to largely do that
22 successfully last year with respect to that
23 population.

24 With respect to those who will remain

1 under the limit -- whether it's under current
2 law, \$250,000, whether the budget as proposed
3 is enacted, \$200,000 -- I think it's
4 important that we provide as much information
5 as possible to help homeowners understand and
6 make that decision.

7 We did as a department try to put out
8 information to help homeowners make that
9 decision. We provided the Legislature with
10 materials, if I recall, to help you navigate
11 that issue with your constituents. And
12 certainly I am eager to work with you to help
13 you answer all of your constituents'
14 questions.

15 ASSEMBLYMAN RA: Thank you.

16 CHAIRWOMAN WEINSTEIN: Senate.

17 CHAIRWOMAN KRUEGER: Thank you.

18 Senator Savino.

19 SENATOR SAVINO: Thank you, Senator
20 Krueger.

21 Good afternoon, Commissioner.

22 So I want to just touch briefly on the
23 issue that Senator Benjamin raised about
24 long-term-care insurance. If you were paying

1 attention to the budget earlier this month,
2 you would have heard at the Health Committee
3 that one of the largest driving costs in
4 Medicaid, and that's creating some of this
5 shortfall, is the increased costs that we're
6 spending on long-term care.

7 So it seems almost counterproductive
8 to reduce the tax credit, because we should
9 be incentivizing people to purchase long-term
10 care so that we don't wind up having --
11 because we're going to pay for it one way or
12 the other. We'll either pay for it through
13 the tax credit or we're going to pay for it
14 through long-term-care coverage. So I just
15 want you to keep that in mind.

16 I want to turn to two other issues,
17 though, because while they're not related,
18 they are. So I can tell you right now
19 everywhere on Staten Island that you can buy
20 cheap cigarettes. They're either brought in
21 from New Jersey, from Virginia, they're
22 untaxed, they're Chinese cigarettes. I can
23 tell you everywhere. I could save you the
24 trouble of going out to do the investigation.

1 If it were up to me, I would ban the
2 sale of tobacco outright. There's absolutely
3 no valuable purpose of nicotine. It is the
4 most dangerous drug that has ever been
5 manufactured. And the fact that we fund
6 programs off the sale of it, which is killing
7 people, is mind-boggling.

8 That being said, if we adopt the
9 approach in the Governor's budget about the
10 immediate revocation of the ability to sell
11 tobacco on the first violation, we're just
12 going to feed this growing illicit market,
13 which is already there.

14 So I would just say we should really
15 think carefully about that. Until we can
16 figure out how to get people to stop smoking,
17 we're not going to solve the problem by
18 taxing people who are running bodegas out of
19 business. They will just adapt, and they
20 will continue to sell on the illicit market.

21 That being said, we would have the
22 same issue on cannabis. So I understand the
23 Office of Cannabis Management is going to be
24 housed in your wheelhouse, I think. Have you

1 had the opportunity -- you or the new
2 director -- had the opportunity to look at
3 the other states that have adopted medical
4 and then followed up with adult use, to talk
5 to them about the challenges that they face
6 collecting tax from the industry? Because of
7 the banking issues, and it's largely a cash
8 business and if -- the rate of taxation in
9 those states, what it has done to the legal
10 market, how overtaxing the product can lead
11 to the continued presence of the illicit
12 market?

13 That's all one big question.

14 COMMISSIONER SCHMIDT: One big
15 question. So why don't I start with
16 cigarettes, and just some context for the
17 budget proposal this year.

18 I agree with you, the incentive to
19 traffic in untaxed product in New York State
20 is extraordinary. The -- we do have one of
21 the highest cigarette taxes in the nation.
22 If you are in a state without a cigarette tax
23 and you fill up a van of untaxed product and
24 you bring it up into New York, there are tens

1 of thousands of -- one trip, there's tens of
2 thousands. So that's what we're up against,
3 right?

4 The proposal in this year's budget is
5 designed to help us address exactly the type
6 of issues that you are indicating are out
7 there, because they are.

8 You know, one issue, for example, is
9 someone comes in, we do an inspection, we
10 catch them selling untaxed product, and they
11 lose their certificate of registration --
12 which, by the way, exists in current law.
13 There are some tweaks to the loss of the
14 certificate of registration, but that exists
15 in current law. And then we find out that
16 there's an affiliated person who comes in and
17 sets up and applies for a certificate of
18 registration in the exact same location.

19 SENATOR SAVINO: Shocking.

20 COMMISSIONER SCHMIDT: Right?

21 Shocking.

22 That's what we call shirt-changing at
23 the department -- they change their shirt,
24 they go back out. The budget proposal has

1 provisions that seek to address that.

2 With respect to cannabis, critically
3 important that we create a program -- Senator
4 Krueger and I have talked about this --
5 critically important that we create a program
6 that is conscious not only of the regulatory
7 and tax burdens in other states, but also
8 conscious of dynamics in the black market.
9 Because we do want, over time, to absorb what
10 is a very large and accessible and efficient
11 black market into a regulated system.

12 SENATOR SAVINO: And no one's done
13 that yet. No state has been able to
14 accomplish that.

15 COMMISSIONER SCHMIDT: I think states
16 have had varying levels of success. I've
17 talked a few times with the Massachusetts
18 commissioner about this, and, you know, it's
19 working over time.

20 I don't think we can expect that it's
21 going to happen overnight. I think what we
22 have to do is set up a system where we get
23 there over time.

24 And we are working in communication

1 with other states to understand their
2 experience, particularly -- there's some
3 issues that are unique to tax administration,
4 like, you know, cash payments, for example,
5 that we are working to develop the best
6 approach to.

7 SENATOR SAVINO: I would just say --
8 indulge me one second -- that it would
9 behoove you to go -- you should go to
10 California, you should visit Colorado, you
11 should visit Nevada. It's quite an
12 experience to see someone roll in a big bag
13 of cash that tends to smell, too, and your
14 tax people have to figure out how to count it
15 and catalog it and collect it.

16 Thank you.

17 COMMISSIONER SCHMIDT: I've had
18 involved conversations with the Massachusetts
19 commissioner about that, and we've talked
20 about setting up a visit, and I intend to do
21 that.

22 CHAIRWOMAN WEINSTEIN: Thank you.

23 We go to Assemblyman Braunstein.

24 ASSEMBLYMAN BRAUNSTEIN: Thank you. I

1 just have a couple of questions about the
2 Empire State Child Tax Credit.

3 So the tax credit in its current form
4 is if you have children 4 or older. And is
5 there an income threshold?

6 COMMISSIONER SCHMIDT: It's \$110,000
7 for a married couple.

8 ASSEMBLYMAN BRAUNSTEIN: For a married
9 couple for the current -- why, when we
10 established the program, did we stop at 4?

11 COMMISSIONER SCHMIDT: That's a good
12 question. I don't really know the answer to
13 that question. I think it was a pretty long
14 time ago. I think it was Pataki era, is my
15 understanding. I don't quite understand what
16 went into it.

17 I do think -- I think maybe there were
18 some other benefits that it was argued, you
19 know, kind of replaced the credit with
20 respect to those -- to kids in that income
21 range, but I don't have those details.

22 ASSEMBLYMAN BRAUNSTEIN: Okay. Yeah,
23 that's what I was just trying to wonder, if
24 the federal tax credit had -- was different

1 back then or --

2 COMMISSIONER SCHMIDT: The federal
3 credit has always been zero to 16 or 17 or
4 whatever it is.

5 ASSEMBLYMAN BRAUNSTEIN: Okay. Okay.
6 All right, that was it, it was my only
7 question. Thanks.

8 COMMISSIONER SCHMIDT: Thank you.

9 CHAIRWOMAN WEINSTEIN: Senate?

10 CHAIRWOMAN KRUEGER: Thank you.

11 Senator Betty Little.

12 SENATOR LITTLE: Thank you.

13 And welcome, Commissioner. And let me
14 begin by saying I appreciate your
15 accessibility through -- with constituent
16 issues and calls that we get, because we do
17 get a lot of them, and your agency has been
18 very good in responding and helping and
19 getting back to people.

20 COMMISSIONER SCHMIDT: Thank you for
21 that. They're watching, and I'm sure they
22 appreciate it.

23 SENATOR LITTLE: Yeah. I'll join my
24 colleagues just for a minute in asking about

1 the long-term-care credit. I remember when
2 long-term-care insurance came about and we
3 offered a credit to incentivize people to buy
4 this insurance so they wouldn't have to hide
5 their assets or get rid of their assets so
6 they could go on Medicaid.

7 Why take away this credit? Because
8 the premiums have gotten really, really
9 expensive, to the point where you say -- you
10 either had to make less than \$250,000 per
11 year. People with less income than that
12 aren't buying these premiums. So you're
13 really taking away the incentive. I would
14 hope you would reconsider.

15 And I know that you estimate 32,000
16 taxpayers would be dropped. But are there
17 some businesses who, under the personal
18 income tax, are paying the insurance premiums
19 for their employees? Which makes it look
20 like, you know, a huge, huge insurance
21 premium and a lot of income.

22 COMMISSIONER SCHMIDT: Well, it would
23 -- the credit, to the extent that a business
24 is using it to pay for their employees, the

1 credit would be shared down so that it would
2 only be to the extent that -- it would apply
3 to the individual business owner's taxes,
4 right? Because this is a personal income tax
5 proposal, so it's for pass-through entities,
6 entities where the tax is passed through the
7 individual business owner's --

8 SENATOR LITTLE: So it would be the
9 individual's income that you'd be looking at,
10 not the corporate -- business BIT.

11 COMMISSIONER SCHMIDT: Correct.

12 SENATOR LITTLE: Okay. Thank you.

13 And under the small business tax
14 thing, which I think is a great idea to help
15 our small businesses. But under the
16 corporate tax reduction, you say that the
17 business can't have an income more than
18 \$390,000 in an entire net income. But if
19 they have \$390,000.01, they would lose it
20 entirely. Whereas previously you had a
21 graduated threshold from 400 to 500,000.

22 Is it possible to continue a graduated
23 rate from 390,000 to 490,000?

24 COMMISSIONER SCHMIDT: As you note,

1 this is a proposal really geared at restoring
2 a measure of progressivity in the corporate
3 income tax. Because it did exist before corp
4 reform in 2014. And it's a recognition of
5 the importance of New York's small businesses
6 to job growth and employment.

7 The current structure functions to
8 really maximize the benefit that we're
9 providing on those businesses below that
10 threshold. Certainly, as you note, there are
11 reasons to consider a phased-in approach or a
12 different structure that smooths it out.
13 Certainly those are conversations that we
14 could have in the context of budget
15 negotiations.

16 SENATOR LITTLE: Okay, thank you.

17 I know that after the federal Tax Cuts
18 and Jobs Act, we decoupled New York from the
19 federal government, which was very helpful to
20 New Yorkers. Are we all set with that, that
21 we don't need to make any more adjustments?

22 COMMISSIONER SCHMIDT: I don't think
23 there's anything out there. As you noted, we
24 were very aggressive --

1 SENATOR LITTLE: On the SALT thing.

2 COMMISSIONER SCHMIDT: -- in that
3 first year in decoupling.

4 Those decoupling reforms, as you
5 recall, they saved New Yorkers \$1.5 billion
6 in taxes annually. And on the personal
7 income tax side, we I think were very
8 comprehensive in that initial effort, and
9 then when we built on that to include some
10 business-related provisions as well in the
11 following year's budget.

12 So, you know, we are always, you know,
13 constantly understanding --

14 SENATOR LITTLE: Looking for more.

15 COMMISSIONER SCHMIDT: -- implications
16 of the law even now.

17 SENATOR LITTLE: Well, I appreciate
18 the fact that you're doing that, so --

19 COMMISSIONER SCHMIDT: But I think
20 it's -- I think we've done a good job.

21 SENATOR LITTLE: Okay. Now, I'm not a
22 fan of recreational marijuana sitting up
23 here, but I also wonder why we tax cigarettes
24 and tobacco products like crazy and yet we're

1 only giving the counties -- there's no sales
2 and local taxes, sales tax on marijuana
3 proposed, and we're only going to give the
4 counties 2 percent locally. Whereas if it
5 were a sales tax, they would have gotten 4
6 percent locally -- 3 percent or 4 percent,
7 depending on the county.

8 Is that intentional or --

9 COMMISSIONER SCHMIDT: The -- so
10 you're talking about the 2 percent share in
11 terms of cannabis taxation?

12 SENATOR LITTLE: Right.

13 COMMISSIONER SCHMIDT: The 2 percent
14 county tax, that was the provision that was
15 incorporated into last year's Executive
16 Budget proposal as well. I think, you know,
17 we -- as I said earlier, we need to be
18 conscious of the overall tax burden to make
19 sure that we're pulling product into the
20 regulated market.

21 Of course the right -- you know, a lot
22 of the money is going towards administration
23 of the program, particularly in the early
24 years, and that's state-level administration.

1 But, you know, what the right split is
2 between state and county, that's certainly a
3 conversation that we could have in the
4 context of the Executive Budget negotiations.

5 SENATOR LITTLE: Well, I'm not in
6 favor of increasing taxes, but I want to see
7 the county gets their share.

8 Thank you very much.

9 CHAIRWOMAN KRUEGER: Assembly.

10 CHAIRWOMAN WEINSTEIN: Thank you.

11 Assemblywoman Dickens, did you have a
12 question?

13 ASSEMBLYWOMAN DICKENS: Yes. Thank
14 you so much, Madam Chair.

15 Thank you for your testimony and your
16 time.

17 I want to commend you and thank you
18 for the Executive Budget including and
19 providing tax relief for farmers and small
20 businesses. And it will assist the
21 middle-income families. And also that you
22 implemented the zero percent tax for
23 manufacturers.

24 However, that zero percent corporate

1 franchise tax rate excludes those
2 manufacturers that are considered small
3 businesses, the pass-through businesses, as
4 they're called, and that they must pay the
5 New York State tax prior to investing in
6 their businesses. And that's just the
7 reverse of what large manufacturers are able
8 to do.

9 Seventy-five percent of the
10 manufacturers in New York State are the small
11 to medium size. So this is a very negative
12 impact and a hardship on a small business.
13 And yet we're touting here that we're doing
14 so much for small business.

15 Can you tell me something about that?
16 Is there going to be some change to that? Is
17 there going to be any consideration?

18 COMMISSIONER SCHMIDT: Thank you for
19 that question.

20 The existing law includes a zero
21 percent tax for manufacturers that, as you
22 note, are structured as C corporations.
23 Those are entities that pay tax at the
24 corporation level. And if they have to

1 distribute that tax to their shareholders,
2 their shareholders would then have to pay
3 income tax on those distributions as well.

4 A pass-through entity that doesn't
5 benefit from the manufacturing tax rate or
6 the zero percent rate, as you described, that
7 pass-through entity is already not paying
8 entity-level taxes. They're paying their
9 taxes on the flow-through as it impacts the
10 underlying individual.

11 So, you know, to exclude those
12 individuals from paying tax, that means that
13 that income goes tax-free altogether, which
14 would actually make it unique in our system
15 relative to our current burden.

16 So, you know, that's obviously a
17 proposal that could be considered in the
18 context of promoting manufacturing in the
19 state. It's a proposal that the Executive
20 hasn't embraced thus far.

21 ASSEMBLYWOMAN DICKENS: Yes, I
22 understand at what point they pay -- the
23 pass-through manufacturers pay their taxes
24 first, then they can make the required

1 investments in their businesses.

2 But this is not a -- it's kind of a
3 misconception that the tax distributions that
4 would pass through are a personal benefit to
5 the pass-through owners. So this becomes a
6 burden on them that they shouldn't have to
7 bear that, by the way, is not in the larger
8 manufacturers.

9 So that's my concern, in that they're
10 being treated almost as if they are C-corp
11 manufacturers.

12 COMMISSIONER SCHMIDT: Again, I think
13 there are a set of policy considerations that
14 I believe apply to -- in the C-corp context
15 that are distinct in the pass-through
16 context.

17 The other piece of it is that
18 expanding that to pass-throughs, expanding
19 the benefit to pass-throughs, has very large
20 fiscal implications. So, you know, that
21 would also have to be something that would be
22 considered in the broader context of the
23 budget discussions.

24 ASSEMBLYWOMAN DICKENS: I'm going to

1 ask if you would be willing to bring this up
2 in your budget discussions. Because New York
3 has in the last few years touted ourselves as
4 trying to have an atmosphere that enhances
5 and makes small manufacturers, the creation
6 of them, to continue in New York or to come
7 into New York.

8 Because they had left. They had left.
9 We can stop fooling ourselves. Small
10 manufacturers had left. There are certain
11 areas, particularly in New York City, that
12 are zoned for that. We have encouraged them
13 to return. Now when they return, they're hit
14 with this -- this -- the way the taxes is
15 done.

16 And so I'm asking would you be willing
17 to consider bringing this into question in
18 your discussions.

19 COMMISSIONER SCHMIDT: Absolutely. We
20 have to take another look. Thank you.

21 ASSEMBLYWOMAN DICKENS: Would you be
22 able to get back with me on that?

23 COMMISSIONER SCHMIDT: Yes.

24 ASSEMBLYWOMAN DICKENS: Thank you.

1 Thank you.

2 CHAIRWOMAN WEINSTEIN: Thank you.

3 We go to Senator Krueger.

4 CHAIRWOMAN KRUEGER: Thank you.

5 Hi. All right, just some follow-up on
6 a few things.

7 As was already referenced by you in
8 explaining that you took the federal
9 childcare credit and -- you could have gone
10 farther for the state. You could have gone
11 to the poorest children.

12 And I would just urge you to say to
13 the Governor, that's the target population we
14 really want to make sure we're providing
15 these expanded funds for.

16 COMMISSIONER SCHMIDT: Just to
17 understand your comment or question, are you
18 referencing the phase-in in the federal
19 credit whereby the lower-income people, their
20 credit is phased in over time?

21 CHAIRWOMAN KRUEGER: It stops at
22 55,000 for single filers, for --

23 COMMISSIONER SCHMIDT: I see. That's
24 what you're talking about.

1 CHAIRWOMAN KRUEGER: And if you
2 continue to go down, like the earned income
3 tax credit does, you could potentially be
4 doubling the amount of child credit --

5 COMMISSIONER SCHMIDT: I see what
6 you're saying. Okay.

7 CHAIRWOMAN KRUEGER: -- for the
8 poorest families with the youngest children,
9 who I think all the data points show are
10 exactly the kids that you said we all want to
11 be helping because it's a win/win.

12 COMMISSIONER SCHMIDT: Okay.

13 CHAIRWOMAN KRUEGER: Okay? So I'm
14 just making a pitch to go back to the
15 Governor and say, Great, we can go farther.

16 SALT, everybody was hysterical about
17 the SALT deduction changes -- and I hear that
18 from my colleagues now. So we now have a few
19 years. We did implement the one program it
20 sounds like the feds didn't throw out on us,
21 where an employer can set up a different
22 system and sort of help you get your
23 deductions, but there's only 262 businesses
24 doing that.

1 COMMISSIONER SCHMIDT: Two hundred
2 sixty-two enrolled in the first year, 311
3 enrolled in the second year.

4 CHAIRWOMAN KRUEGER: Okay. Have we
5 had a chance now to see what the SALT changes
6 versus the other federal reductions have
7 actually done for New Yorkers? Because our
8 friend E.J. McMahon sitting up there behind
9 you told me at least a year ago: "You know,
10 it all works out in the wash" -- not exactly
11 the way the Governor is saying.

12 So do we have data at this point?

13 COMMISSIONER SCHMIDT: We -- so just
14 from a data standpoint, where do we stand on
15 that. The federal tax law was enacted at the
16 end of 2017, took effect 2018, first filers
17 that came in under the new federal tax law
18 April of 2019, extension filers --
19 disproportionately SALT-impacted -- October
20 of 2019. So that's just a few months ago at
21 this point.

22 And we at the department have a set of
23 regular processes that we go through as
24 information comes in to refine that

1 information to make sure that the data is,
2 quote, unquote, clean, that outliers are
3 excluded. And we continue to get in amended
4 returns, late-filed returns. Those can have
5 a big impact too.

6 So we are undertaking analysis to
7 understand the impact of SALT with that data.
8 I think there's no question that the impact
9 of SALT has been substantial. The initial
10 estimate of the department is that SALT would
11 cost New York's taxpayers -- considering the
12 SALT cap, would cost New York's taxpayers up
13 to \$15 billion every year in terms of the
14 increase in their federal tax burdens.

15 I mean, that's a provision that -- and
16 I'll now say a whole bunch of things that
17 have been said plenty, but that's a provision
18 that has a disproportionate and negative
19 impact on New York. It's a provision that is
20 really an attack on the model of active and
21 progressive state government -- you know,
22 states that want to invest in education,
23 invest in healthcare, invest in
24 infrastructure.

1 And so, you know, the Governor has
2 been very forceful in advocating for the
3 repeal of SALT, and we'll continue to do so.

4 CHAIRWOMAN KRUEGER: Okay. It was
5 also brought up by the different people, but
6 I'm just trying to get my arms around this.
7 So we saw a drop in beneficiaries caused by
8 -- excuse me. So when we changed this STAR
9 you get the check, you don't get the check,
10 it's a credit, it's a deduction -- did we see
11 a drop in beneficiaries caused by people just
12 not successfully understanding what they're
13 supposed to be doing in changing exemption
14 versus credit in past years? And how many
15 people?

16 COMMISSIONER SCHMIDT: We don't -- we
17 don't believe so.

18 For taxpayers -- under current law,
19 for taxpayers making below \$250,000, nothing
20 has changed, nothing has affected their
21 exemption. They will continue to receive
22 that exemption unless they opt into the
23 credit program.

24 And then for taxpayers between

1 \$250,000 and \$500,000, as I described, we
2 undertook a very I think comprehensive
3 effort. We identified -- we didn't do a
4 general marketing program to try to get
5 people in. We knew exactly the people we had
6 to get into the program. For 85 percent of
7 them, we were able to automatically enroll
8 them. They did nothing, they just received
9 their check.

10 And for the remaining, we were able to
11 send them letters, ask them to come in,
12 register voluntarily. And most of those did.
13 And some of those who didn't, you know, you
14 can assume that maybe not all of them would
15 have been eligible.

16 So overall I think with the credit
17 program it's safe to say that people are
18 still getting their benefit. We're always
19 trying to be better about getting -- you
20 know, the administration of the program and
21 making sure your constituents are getting
22 their checks on time.

23 And then on the back side of it, I do
24 think we've had success in employing a

1 statewide perspective to ensure the integrity
2 of what is a statewide program.

3 CHAIRWOMAN KRUEGER: So you answered
4 one of my colleagues -- it may be multiple
5 colleagues, but at least one of my
6 colleagues, about not knowing the answers of
7 different tax credits going out at what
8 amounts or different deductions being
9 collected by X number of filers.

10 But we passed a law that people have
11 just been calling the "database of deals."
12 That's not the official title of the law.
13 And ESD explained that they are taking to the
14 end of this year to develop this database,
15 they're contracting with someone.

16 It seems to me, since so much of our
17 economic development activity is via tax
18 credits and exemptions, your office is the
19 one who would know or should know. Are they
20 working with you to coordinate so that they
21 are building a database that will actually be
22 able to draw down on this information from
23 their own records and your records at the
24 same time?

1 COMMISSIONER SCHMIDT: To the extent
2 that ESD is putting together a database of
3 deals for their programs, the only way there
4 would be a disconnect between what they have
5 and what we have with respect to tax programs
6 -- they have plenty of non-tax programs as
7 well -- but the only way there would be a
8 disconnect between what they have and what we
9 have is if a taxpayer didn't come in and
10 claim the credit, if in fact the benefit
11 didn't go out.

12 Aside from that, everything ESD does,
13 the benefit goes to the taxpayer and then we
14 administer that benefit. And then as you
15 well know, we -- there's a tax expenditure
16 report that is made public every year as
17 well.

18 CHAIRWOMAN KRUEGER: So I'll just use
19 one example, because I asked ESDC earlier
20 today about the Opportunity Zones program and
21 what role the state was playing, and they
22 said nothing. So I said, you know, what's
23 going on in our Opportunity Zones? You
24 identified them and mapped them. But then

1 they said they have no role.

2 But then someone else testified later,
3 reminding me that there is a state and local
4 capital gains tax benefit for businesses and
5 Opportunity Zones. So you should be able to
6 identify how many people are drawing down on
7 the capital gains deductions for doing
8 business in Opportunity Zones?

9 COMMISSIONER SCHMIDT: I think so.
10 But I'm pausing because the nature of the
11 state exclusion for Opportunity Zones is a
12 function of the fact that as a baseline, our
13 personal income tax is tied to the federal
14 personal income tax. Which is why we had to
15 do all that decoupling after the TCJA was
16 enacted.

17 So the reason that the Opportunity
18 Zones tax benefit flows through to state law
19 is -- you know, we didn't do anything to make
20 that happen. That is just a function of the
21 fact that our law is tied.

22 So the reason I say I'm not sure is
23 that I'm not sure how the reporting on the
24 federal returns flows through to the

1 reporting on the state returns. I would
2 expect that the relevant federal forms would
3 also be attached to state forms, but I'm not
4 a hundred percent sure on that.

5 And I'd be happy, obviously, to get
6 back to you on that.

7 CHAIRWOMAN KRUEGER: And you and I
8 have had a conversation about why I think
9 it's so important for us to get a better
10 handle on how we evaluate tax expenditures
11 and credits.

12 So yes, you put out this report, and
13 it shows certain numbers and they grow every
14 year, but there's not necessarily any basis
15 for believing that these are, you know, good
16 or bad projections. While hopefully in the
17 21st century there is a better way to
18 evaluate what the impact is. Because we're
19 talking -- I don't know, I haven't added
20 up -- I used to go through and add up every
21 tax expenditure category, and it would be
22 like a 26 billion -- it's probably like a 32
23 billion by now. But those numbers are
24 important for us to understand and be able to

1 analyze together.

2 So my time is up, so I hope that you
3 will continue to work on that issue as well.
4 Thank you. Thank you.

5 CHAIRWOMAN WEINSTEIN: Thank you.

6 So I have a few questions that haven't
7 yet been -- really, mostly follow-ups to
8 other members.

9 Just in terms of what Senator Krueger
10 was just asking in terms of SALT, have we
11 seen a decrease in the number of high-income
12 taxpayers since the federal law was passed,
13 or is that still some of the data you're
14 trying to collect?

15 COMMISSIONER SCHMIDT: That's some of
16 the data we're working to collect and refine
17 that ultimately, in summary form, will be
18 made public. But, you know, we're going
19 through our process of cleaning the data with
20 respect to last year's filers right now.

21 CHAIRWOMAN WEINSTEIN: Okay. And then
22 to follow-up on some of the back-and-forth
23 you had with Assemblywoman Galef regarding
24 denying the STAR benefit to delinquent

1 property owners -- and we've spoken about
2 this previously -- do we have any idea how
3 many STAR benefits are being provided to
4 delinquent property taxpayers?

5 Do we have concern that denying
6 homeowners STAR exemptions would increase the
7 size of tax delinquencies and lead to an
8 increase in the number of foreclosures and
9 particularly the impact this could have on
10 seniors who have entered into reverse
11 mortgage agreements?

12 COMMISSIONER SCHMIDT: With respect to
13 your first question, which is what is the
14 scale of this problem, part of the challenge
15 right now is that we don't have a statewide
16 view into property tax delinquency.

17 So as I was mentioning to
18 Assemblymember Galef, part of what this
19 proposal would do is create that information
20 flow between local governments and the state
21 government on the issue of who's delinquent
22 on their property taxes. And that will help
23 us understand exactly what the scale of the
24 issue is.

1 I think the overall thrust of the
2 proposal is to protect the integrity of the
3 STAR program, to decrease delinquencies --
4 right? To help local governments who have
5 really limited tools when it comes to
6 collecting property taxes. Their only
7 recourse is foreclosure. So really it's
8 better for everyone if people are staying
9 current on their property taxes.

10 So to increase compliance, voluntary
11 compliance with property tax obligations,
12 while also including a set of safeguards for
13 affected taxpayers.

14 And in the case of this legislation,
15 those safeguards include notice of the fact
16 that they might lose their STAR benefit; an
17 opportunity to protest the fact that -- you
18 know, maybe we have our facts wrong, and they
19 should be able to come in and provide
20 information; and then an opportunity to cure
21 before their benefits are reduced.

22 And so, you know, I think there is a
23 sense of balance in the legislation with
24 respect to the imperative of getting people

1 to comply with their property tax obligations
2 while also building a set of safeguards.

3 CHAIRWOMAN WEINSTEIN: It seems like a
4 lot of work to -- without knowing -- you
5 know, sort of to react to a couple of
6 publicized cases. But we'll continue and
7 have those discussions as we go on.

8 And Senator Little had asked some
9 questions about the small business tax. Do
10 we know how many -- is there an estimate of
11 how many small businesses would benefit from
12 the proposal? I know there's a dollar figure
13 attached to it, but --

14 COMMISSIONER SCHMIDT: The proposal to
15 reduce the corporation tax --

16 CHAIRWOMAN WEINSTEIN: Right.

17 COMMISSIONER SCHMIDT: -- from
18 6.5 percent to 4 percent, that would benefit
19 36,000 small businesses.

20 CHAIRWOMAN WEINSTEIN: Thank you.

21 And then I have two more subjects. So
22 on the Film Production Tax Credit, what's the
23 rationale for the 5 percent reduction on that
24 and the limitation in the dollar limits?

1 I don't know if you were -- I think
2 you might have been in the room -- I'm not
3 sure if you were in the room when we heard
4 from some folks in the Economic Development
5 Hearing talking about the need to -- that
6 we'd be better off increasing those
7 thresholds, the 1 million to go to up to 1.5
8 and the -- out of New York City, to go up to
9 a million, to try and get larger-budget
10 productions into the state.

11 COMMISSIONER SCHMIDT: Again, this is
12 a program where we -- in terms of the
13 day-to-day administration, the Tax Department
14 does not have a significant role. It's ESD's
15 film office that is engaging with the
16 industry on a day-to-day basis and that is
17 certifying the availability of the credit.

18 It is an important credit, obviously,
19 for the industry in New York. It does -- has
20 done a lot to fuel the growth of content
21 creation here in the state. And the changes
22 in this year's budget, because it's been used
23 so -- so extensively, I think the changes in
24 this year's budget help to ensure that the

1 resources are going to be available into the
2 long term so it can continue to have that
3 impact.

4 CHAIRWOMAN WEINSTEIN: And also what
5 I've heard and was mentioned here today is
6 that just the one-year extension doesn't help
7 that much because productions, if they're
8 wanting to start a new production, need to
9 know that they have a few years that they can
10 keep that production going and not have to
11 wonder whether the state is going to renew
12 the credit for future years.

13 So I know over the years that has --
14 when this has come up, that's been an issue.
15 So I would just suggest that we think
16 about --

17 COMMISSIONER SCHMIDT: Okay.

18 CHAIRWOMAN WEINSTEIN: -- having a
19 longer extension.

20 And then one of my colleagues had --
21 several colleagues actually had raised an
22 issue about the mortgage recording tax and
23 how it could be avoided when the borrower of
24 a large project doesn't seek funds from a

1 bank but instead from sources of private
2 equity -- mezzanine financing, as it's
3 called. And we're seeing the private equity
4 funding real estate sales are less expensive
5 because of being able to avoid the mortgage
6 recording tax, and they don't have concerns
7 about what the mortgage is collateralized by,
8 so they don't need to have -- they don't have
9 the need to have that recorded.

10 Obviously in a big money purchase it
11 could be a substantial amount of money. I
12 don't know if you've given any thought to
13 that, but could you give some thought to if
14 there is some reasonable way for New York
15 State to prevent purchases of expensive real
16 estate from avoiding the mortgage recording
17 tax and then the tremendous loss of revenue
18 to the state?

19 COMMISSIONER SCHMIDT: We'd be happy
20 to take a look at that.

21 CHAIRWOMAN WEINSTEIN: Okay. Thank
22 you. That is all the questions I have and
23 all the questions the members have.

24 We look forward to hearing from you,

1 Commissioner, on some of the issues that
2 you'll get back to us on, and looking for the
3 information on particular findings on the
4 impact of SALT on personal income taxes of
5 New York residents.

6 Thank you. Thank you for being here.

7 COMMISSIONER SCHMIDT: Thank you.

8 CHAIRWOMAN KRUEGER: Thank you very
9 much.

10 CHAIRWOMAN WEINSTEIN: So now we have
11 the nongovernment portion, the public portion
12 of our hearing.

13 Just a reminder for the witnesses, we
14 have your testimonies or we should have had
15 your testimonies sent to us electronically in
16 advance. Those who have complied with our
17 regulations, our rules, that testimony has
18 been circulated to the members.

19 The witnesses will have five minutes
20 to present their testimony. Don't read it,
21 because you never get to your important
22 parts, which are at the end. You don't have
23 to thank us for being here, you don't have to
24 say other things about how you've worked with

1 us over the years, just get to your high
2 points. We know you appreciate being here.

3 And for the members that want to ask
4 questions, there's a three-minute time, and
5 that's both for the question and answer. So
6 it's basically for a question or two.

7 And with that, Edmund McMahon --

8 CHAIRWOMAN KRUEGER: I just have to
9 add, you don't even have to like us.

10 CHAIRWOMAN WEINSTEIN: You don't have
11 to like us. We can disagree. We can agree
12 to disagree.

13 And with that, the Empire Center for
14 Public Policy. You just happen to be first.

15 (Laughter.)

16 MR. McMAHON: Good afternoon. With
17 every sincere formality in mind, but leaving
18 unexpressed, I'll go right into it.

19 Among -- there is very little tax
20 action in the budget this year, as you know.
21 Among the very few proposals the Governor has
22 made, without any belittling any others, I'm
23 going to focus on two and then pivot to
24 discussing other proposals that you're

1 hearing a lot about that I think are very
2 relevant.

3 The two proposals I'm going to discuss
4 are the Governor's proposal to expand the
5 child credit and, for Assemblyman
6 Braunstein's knowledge, it did not go below
7 5-years-old because it was originally
8 proposed as a tuition tax credit by Governor
9 Pataki. And the Assembly speaker at the time
10 insisted on converting it to a credit for
11 school-age children. It was for school-age
12 children, that's why.

13 I think the Governor's proposal is a
14 very laudable one, but you should go further.
15 And repeating a proposal I've made in the
16 past that's detailed in here, I think you
17 should cancel, repeal the small sales tax
18 exemption on clothing and footwear purchases
19 and use the very large sum of money that goes
20 for that into very meaningful added child
21 credit relief, which would help working
22 families a lot more. You could pretty much
23 double the child credit and do the Governor's
24 piece for the money that's spent on that.

1 The second piece of the budget -- tax
2 item in the budget which I am negative on is
3 the extension of the film credit. And I'll
4 just pass over that and just say I think it's
5 a bad idea, I think the film credit is
6 something on which you should call a wrap as
7 soon as possible, and I'll be happy to
8 discuss it or explain my viewpoint beyond
9 what's in my testimony if you'd like me to.

10 And from there, I would move on to --
11 turn to some other proposals on the tax
12 front. As you know, various groups have
13 proposed various proposals, including new
14 taxes on stock buybacks, a tax on accumulated
15 wealth, the so-called pied-à-terre tax on
16 high-priced second homes, all in the name of
17 taxing, quote unquote, millionaires and
18 billionaires.

19 The most relevant proposal -- relevant
20 because it's been passed by the Assembly in
21 one-house budgets for several years now, is a
22 proposal to add to the tax rate on people who
23 make more than a million dollars a year.

24 As I explain in my testimony, we've --

1 we're already seeing effects from before the
2 SALT cap, I think, of higher taxes on New
3 Yorkers. I think we're seeing erosion in the
4 resident part of the tax base and significant
5 growth among non-resident high-income
6 earners.

7 The tax cap is extremely significant
8 and really brings a sea change in taxation in
9 New York. What used to be nearly a
10 40 percent discount on New York State's top
11 rate, on a combined New York City and State
12 top rate, is now gone. You now pay a hundred
13 percent of the tax.

14 That means -- and this helps clear up
15 one misunderstanding. In the Rockefeller era
16 when the tax went as high as 15.4 percent,
17 that 15.4 percent tax was fully deductible
18 and cost the people who paid it 4.5 percent.
19 Most recently, the 8.9 percent, 8.8 percent
20 state tax rate cost the people who paid it
21 6.3 percent, including a minor, a lesser cap
22 on deductibility that was already in federal
23 law.

24 The cap is now gone. It has

1 significantly increased the net cost of our
2 marginal tax rate to a degree never seen
3 before. It's much higher than it's ever
4 been, both in the state level and combined
5 state and city. That's a factor that needs
6 to be considered in light of all of these
7 proposals.

8 I would also suggest that if you look
9 at issues that affect high-income payers,
10 income tax is not the only one. You did a
11 very good reform of the estate tax five or
12 six years ago, but we still remain one of
13 only a dozen states that still have any
14 estate tax. It's basically the Upper
15 Midwest, New England, and us. And the rest
16 of the country -- not just Florida, not just
17 the no-tax places, nowhere is there an estate
18 tax. That's something of which people with
19 large estates are very aware.

20 Let me turn to a final issue. We can
21 all -- we can agree to disagree on what the
22 proper levels of spending are. People
23 believe in bigger government or smaller
24 government or more of one thing or more of

1 another. But one rule I think you would want
2 to be conscious of is that you need a tax
3 base that's sustainable. If your tax base is
4 not sustainable and reliable, at whatever
5 level you're choosing to spend, you're going
6 to run into serious fiscal programs and
7 endanger your programs.

8 The Assembly Ways and Means staff
9 several years ago noted that because we're so
10 heavily dependent -- that was then, before
11 some of the most recent increases -- that our
12 income tax is inherently unstable, volatile
13 and unsustainable. That was what the Ways
14 and Means staff pointed out a good 10 years
15 or so ago.

16 It's become more so since then. And
17 it would be even less sustainable in the long
18 run, more volatile, more unreliable if, aside
19 from all the other objections, you were to go
20 to further increase your already steep
21 marginal rates on very high earners. So
22 that's a final closing reason for not going
23 ahead and doing that.

24 And I have now gone 3½ seconds past my

1 allotted time, and I'll close it there and
2 gladly answer any questions.

3 CHAIRWOMAN WEINSTEIN: Assemblyman Ra.

4 ASSEMBLYMAN RA: Good afternoon.

5 If you can talk a little bit more
6 about the film tax credit. You know, a
7 number of members of our conference have
8 criticized this credit in the past and, you
9 know, have felt that a lot of it goes to
10 productions that would have taken place here
11 anyway.

12 Do you feel that any of the reforms to
13 it have gotten at that issue?

14 MR. McMAHON: Well, no. I mean, the
15 main argument made for the film credit as
16 well is -- and so-called impact analysis of
17 it says that -- is to simply tally up all of
18 the productions made that qualified for the
19 credit and say that the credit is responsible
20 for all the jobs that they've produced.

21 I would suggest to you that if you
22 gave any industry -- let's say all of
23 manufacturing or just chemicals or just metal
24 vendors -- a 30 percent production credit --

1 a subsidy, that is -- sent them a check
2 annually for 30 percent of what they produce,
3 you'd see a lot of more of it. It's that
4 simple.

5 This industry has certainly obvious
6 appeal to people that gets it some special
7 treatment. This was a major production site
8 before the credit went into effect. It will
9 remain a major production site after it's
10 gone. You will not have as many productions,
11 but you have to think about cost-benefits.
12 And at what point do you stop subsidizing and
13 let New York compete on its own merits?

14 I would -- for instance, it can be
15 reasonably argued that with heavy, very heavy
16 subsidies from state taxpayers, the state
17 film credit was responsible for incentivizing
18 the construction and expansion of major
19 studio facilities in New York City with which
20 many of us are familiar. The credit is one
21 of the reasons for that, because so much was
22 being subsidized there.

23 If I could sum up simplistically my
24 reaction now, can we stop now? When is

1 enough enough? That's the question I would
2 ask about it.

3 There were studies done on this
4 recently by a professor at USC who's done
5 some criticism of this also, who suggested
6 that the impact is minimal in the five states
7 with the highest credits.

8 So as you can see, I'm tempted to go
9 on at length about it because I really think
10 it's very difficult to defend at this point.

11 ASSEMBLYMAN RA: Thank you very much.

12 And I thank you for your work. I do
13 enjoy reading your publications about
14 different issues going on in New York State.

15 MR. McMAHON: Thank you.

16 CHAIRWOMAN KRUEGER: Brian Benjamin.

17 SENATOR BENJAMIN: Thank you.

18 So I want to jump right into
19 philosophy for a second. One of the things
20 you reference here is that roughly 40 percent
21 of the income tax is paid by the
22 highest-earning 1 percent of taxpayers.

23 MR. McMAHON: Right.

24 SENATOR BENJAMIN: I'm assuming you're

1 saying that because you're making up the
2 claim possibly that the top 1 percent is
3 paying too much. Is 40 percent too much of
4 --

5 MR. McMAHON: They're paying what they
6 pay. That's meant to be an answer to the
7 claim that our taxes are not fair. And fair
8 is a subjective; we could disagree all day
9 about fair. I think that quite often at this
10 point, fair means more rather than
11 appropriate.

12 SENATOR BENJAMIN: Since we've got
13 time limits, what do you define as fair?
14 What is fair to you?

15 MR. McMAHON: I think, though, you
16 want a tax code that raises that -- that
17 maximizes all the revenue you need and only
18 the revenue you need, and that what revenue
19 you need is decided by what you spend. But
20 that you're probably a little beyond the
21 point now where you are actually maximizing
22 revenue, that there's some signs already of
23 leakage in our tax base before the tax cap --
24 some of which is demographic and unavoidable

1 because the wealthiest New Yorkers are baby
2 boomers in general who are all turning into
3 retirement age, and many of whom might be
4 selling out businesses and moving to other
5 states anyway.

6 So I think -- what is the right level?

7 I would say -- I would back up and say the
8 level is a level that is competitive, that
9 allows you to retain the economic base you
10 have in all of its diversity without unduly
11 creating undue incentives to think harder
12 about doing what they do elsewhere. And I
13 think that's a risk.

14 And again, volatility is a concern.
15 Quite apart from what you think is fair,
16 you've got a very volatile tax base right
17 now -- more volatile than at any time in
18 modern history -- because we have increased
19 our reliance on a very small number of
20 high-income taxpayers to its highest level
21 ever. And we're more dependent on our income
22 tax than we've ever been. It's two-thirds of
23 our tax revenue now.

24 SENATOR BENJAMIN: Got it.

1 So raising -- one of your sentences
2 here, "Raising taxes on the highest incomes
3 to raise revenues in the short term will only
4 accelerate the erosion of our tax base in the
5 long run."

6 MR. McMAHON: Yes.

7 SENATOR BENJAMIN: Do you have some
8 historical context for that, or is that just
9 your opinion?

10 MR. McMAHON: Well, first of all, I
11 mention some figures in my testimony that I
12 think indicate and suggest that you already
13 have begun to see some erosion, number one.

14 Number two, if you want an example --

15 SENATOR BENJAMIN: Right, but that
16 erosion was -- from what I remember seeing,
17 not millionaires and billionaires, but from
18 people who are making a lot less than that.

19 MR. McMAHON: No, I was talking about
20 the tax base of millionaire earners. I said
21 that our -- the number of millionaire earners
22 in New York State increased more slowly than
23 in the rest of the country. During the
24 period from the recession and through 2016,

1 the latest year for which we have data, there
2 was a very, very striking difference in the
3 growth in incomes among income millionaires
4 during that period. It was much, much lower
5 here -- in fact, mainly in the
6 noninvestment-income category, by the way --
7 and a strikingly large increase in the
8 federal gross incomes of nonresidents who are
9 in our tax base.

10 Now, I can't -- the data don't say
11 those people are all people who left
12 New York. They were not all people who were
13 once in New York and moved elsewhere.

14 But those things all tend to at least
15 be -- should be seen as gestures in the
16 direction of not supporting the idea that you
17 can raise taxes with impunity and then no one
18 responds to higher tax rates.

19 CHAIRWOMAN WEINSTEIN: Thank you. The
20 Senate again. The Assembly is --

21 CHAIRWOMAN KRUEGER: Oh, you're done.

22 CHAIRWOMAN WEINSTEIN: -- has -- we
23 have no more questions.

24 CHAIRWOMAN KRUEGER: Senator Betty

1 Little.

2 SENATOR LITTLE: Thank you.

3 It used to be the estate tax that took
4 people from the North Country, definitely, to
5 states where they had better estate tax
6 benefits. But now I think what you're saying
7 is that tax the rich, the millionaire tax --
8 continue to do that, there is a definite
9 connection, isn't there, between that and
10 people moving. In other states as well, do
11 they move out of other states as much as
12 they're moving out of New York State? If you
13 get into that high of taxing.

14 MR. McMAHON: I would say that -- keep
15 in mind that the number of people --
16 residents of New York State who earn million
17 dollars or more is about 45,000 people, I
18 think, remembering offhand. Maybe it's
19 lower. I can't -- maybe 45,000 households.

20 That's a very, very small number of
21 people. All of the statistics that the
22 Census Bureau does about migration count
23 hundreds of thousands of people moving --
24 most of whom, by definition, are not -- they

1 not only are not millionaires, they're not
2 even affluent. Okay?

3 But the question is what do we see in
4 the numbers that suggest that that small
5 group in particular is becoming more mobile?
6 I cite a statistic, it was very interesting,
7 from the latest IRS migration data, which is
8 from tax returns. If you look at people
9 moving to Florida from Manhattan -- only
10 Manhattan -- their average incomes of the
11 people moving from Manhattan to Florida, grew
12 from \$125,000 roughly in 2011-2012 to
13 \$245,000 in the space of seven years.

14 Now, when you have an average that
15 high for like 3300 people, probably the
16 distribution is weighted at some ends by some
17 really high income -- in fact, some counties
18 in Florida during that period were gaining
19 New York -- Manhattan residents with incomes
20 averaging over \$900,000. Small numbers of
21 people.

22 But the small number of high-income
23 earners in New York, especially super-high,
24 pay so much more per tax per filer that a

1 very small number of them actually can and
2 will be missed if you have more of them move
3 away.

4 And they don't just have to move away;
5 they can do things to minimize their income.
6 They can choose to earn less or defer, they
7 can choose to be in New York less of the
8 time. There's all sorts of techniques and
9 tactics that can be used to at least try to
10 minimize one's presence and exposure to
11 New York taxes. And I think that what we're
12 seeing are signs that that's going on.

13 SENATOR LITTLE: How about the
14 Governor's small business tax proposal
15 reducing the tax on them, corporate taxes on
16 small business? Do you have an opinion on
17 that?

18 MR. McMAHON: My opinion on that is it
19 looks fine as far as it goes. It doesn't go
20 very far. It looked like a way to do the
21 least bit possible and say one was proposing
22 a small business tax cut.

23 Now, in the overall context of the
24 budget, is a much broader small business cut

1 a higher priority than other things? I don't
2 know. I haven't looked at what the
3 difference would be.

4 But there's very few small businesses,
5 relatively, that pay -- that are C-corps, as
6 the commissioner and others have been saying,
7 I think. And this is a -- and 36,000 or
8 39,000 small businesses is not many
9 businesses.

10 CHAIRWOMAN KRUEGER: I'm going to have
11 to cut things off.

12 SENATOR LITTLE: Thank you.

13 CHAIRWOMAN KRUEGER: Thank you.

14 I will follow up with you at another
15 time. Thank you.

16 MR. McMAHON: Okay.

17 CHAIRWOMAN KRUEGER: Assembly.

18 CHAIRWOMAN WEINSTEIN: Thank you.

19 That's all the questions we have at this
20 time.

21 MR. McMAHON: Okay.

22 CHAIRWOMAN WEINSTEIN: Next we will
23 have a panel. Fiscal Policy Institute,
24 Ronald Deutsch. Joining Mr. Deutsch is

1 Dr. Jonas Shaende -- okay, I can't read that;
2 then the New York State Council of Churches,
3 Reverend Peter Cook; and Schuyler Center for
4 Analysis and Advocacy, Dorothy Hill.

5 Just as a reminder, Fiscal Policy
6 Institute, you have five minutes, even though
7 there are two of you. You figure that out.
8 Each of the others, Council of Churches and
9 Schuyler Center, you each have five minutes.
10 After that there will be opportunity for
11 members to ask questions.

12 CHAIRWOMAN KRUEGER: So you said five
13 minutes? So we have the clock at three. Do
14 you want to make it five?

15 CHAIRWOMAN WEINSTEIN: Yeah, it's
16 five. Yes.

17 CHAIRWOMAN KRUEGER: Five minutes on
18 the clock.

19 CHAIRWOMAN WEINSTEIN: Tom, yeah, it's
20 five for each group.

21 MR. DEUTSCH: Right. I'd suggest next
22 year if you're going to group folks together,
23 you should put E.J. and I together. It would
24 be far more entertaining.

1 CHAIRWOMAN WEINSTEIN: We thought of
2 that. But we wanted the hearing to end
3 earlier.

4 (Laughter; overtalk.)

5 MR. DEUTSCH: Just a thought, okay.

6 Well, thank you very much for the
7 opportunity to be with you all today. We
8 greatly appreciate that. I want to jump
9 right in, obviously, since I only have two
10 and a half minutes and I'm splitting that
11 with my colleague here.

12 We indeed believe there is a spending
13 problem in New York, and that spending
14 problem is this: a 2 percent state spending
15 cap. For the last 10 years, we've been
16 operating under this cap. This cap is not in
17 statute, it's not in law, we don't have to
18 adhere to it, yet you all agree to it every
19 year.

20 The Governor puts out his budget, he's
21 got spending set at 1.9 percent this year.
22 That doesn't give you all much wiggle room.
23 And it really doesn't give you the
24 opportunity to fund the things that need to

1 be funded.

2 This cap has been a detriment to human
3 services. Right? When you have budget
4 outlays for education and healthcare that
5 could be anywhere from 4 to 6 percent
6 increases per year and they represent half of
7 our budget outlays, that means everything
8 else under a 2 percent cap overall has to go
9 down.

10 And what we've been seeing, clearly,
11 is that state human service funding to
12 localities, if it had grown at the same rate
13 as the overall budget for the last 10 years
14 since 2011, we would actually be spending
15 about \$2.2 billion more this year than we are
16 to address many of the human services needs
17 that exist here in New York State.

18 So I would suggest we do have this
19 spending problem, and we need to correct it.
20 We can no longer continue to operate under
21 these austerity measures and this scarcity
22 mindset. So we need to raise revenue.

23 There's a poll that was released on
24 Monday; perhaps you heard about it. It was

1 from the Hart Research Polling Institute, and
2 it looked at three particular revenue
3 raisers. It looked at -- pardon my French --
4 the pied-à-terre tax, it looked at the
5 ultra-millionaires' tax, and it looked at
6 taxing billionaires' wealth.

7 And what did it find? Ninety percent
8 of New Yorkers supported these measures --
9 over 90 percent, in some cases, supported
10 these measures. Ninety-plus percent thought
11 that doing all three of these things would be
12 the right thing to do for New York.

13 And for those of you who are afraid
14 about raising taxes on the wealthy right now
15 and have been reluctant to do so, the poll
16 indicated that 72 percent of New Yorkers
17 would be more likely to vote for you if you
18 in fact voted for these measures.

19 So I would say we have -- we have a
20 spending problem that we're not spending
21 enough, and revenues need to be raised. So
22 I'm going to turn it over to my colleague,
23 Jonas Shaende, to talk about those three
24 measures.

1 DR. SHAENDE: The three measures --
2 thank you. The three measures that we
3 support, the institute, are -- first is
4 taxing the true economic income of the
5 wealthiest New Yorker, where they would not
6 be able to tie their gains and losses and
7 their taxation by trying to sell at the
8 opportune times, their financial assets. By
9 doing that, we'd be able to make our tax
10 system a lot more fair.

11 The second is the pied-à-terre tax.
12 The pied-à-terre tax we discussed last year
13 and there was overwhelming support for that
14 tax. It would generate, in our estimation,
15 about half a billion dollars per annum. So
16 that is a tax on expensive -- \$5 million and
17 more -- properties where people do not live.
18 So these are second and third homes that are
19 luxurious and not very needed to those who
20 own them.

21 And the third is the multi-millionaire
22 tax that, in the new version that we have,
23 would generate about \$4.5 billion of
24 brand-new revenue.

1 Now, the millionaire tax that we are
2 proposing would have the brackets at
3 1 million, 5 million, 10 million and
4 \$100 million, with the rates at 9.62, 10.32,
5 11.32, and 11.82 percent, respectively. That
6 is quite reasonable, well below California
7 and other comparable tax high -- high-tax
8 states, and so we think that is a very
9 important thing to consider.

10 With respect to the millionaires
11 leaving the state, since the first
12 implementation of the millionaire tax, their
13 numbers increased by 89 percent, and their
14 total incomes more than doubled.

15 Thank you.

16 CHAIRWOMAN WEINSTEIN: Thank you.

17 Reverend Cook?

18 REVEREND COOK: Thank you for the
19 opportunity to speak on behalf of the
20 New York State Council of Churches in our
21 quest to raise more revenue from the rich and
22 to lift the 2 percent spending cap.

23 I think as a pastor representing so
24 many pastors in every part of the state, in

1 rural communities, in suburban communities,
2 in urban communities, downstate and upstate,
3 we encounter so many people who are dealing
4 with a tremendous financial strain because
5 the costs of childcare, high-deductible
6 health plans, housing, food and other
7 expenses often exceed their modest incomes.

8 Then we add to this problem
9 underfunded schools, poor rural broadband
10 service, crumbling roads and bridges, closing
11 hospitals and a property tax rate which
12 causes many New Yorkers to live in poverty or
13 lose their homes or their businesses.

14 When complaints mount, the state
15 responds by telling people that there's not
16 much they can do because we have a budget
17 deficit which can only be solved by, in this
18 case this year, cutting Medicaid and other
19 programs and shifting state responsibility on
20 to overburdened counties and municipalities.

21 We also say there's no new money to
22 invest in programs which would lift the
23 financial burdens of the vast majority of
24 people.

1 And we respectfully disagree with
2 these assertions and assumptions. And we
3 really believe that we need to lift the cap
4 and to tax the very wealthiest.

5 We, along with Fiscal Policy Institute
6 and many other groups, have made 14 proposals
7 to raise revenue from the very wealthiest
8 without taxing most New Yorkers.

9 There are two common arguments in
10 favor of not taxing rich people which we wish
11 to debunk. First, that rich people will
12 leave the state if we tax them more. While
13 there are studies to suggest that a handful
14 may leave if their taxes go up, the truth is
15 that most will stay because New York allows
16 them to make more money, and this is the
17 place that they call home.

18 It's also the case that many
19 disproportionately benefited from the 2017
20 federal tax cut, which means that they are
21 paying less taxes than they did several years
22 ago.

23 A far greater problem, we think, are
24 the number of lower- and middle-class

1 New Yorkers leaving New York because their
2 taxes and cost burdens are too high. A
3 massive loss of federal revenue could be
4 happening after we conduct a census which
5 shows a loss in population.

6 Another argument is that it's
7 politically unfeasible to tax rich people
8 because politicians who make this case now
9 could stand to not be elected again if they
10 push on this agenda. Wait, we are told,
11 until after 2021 when we can see if the
12 Democrats again can get the majority.

13 The truth is that too many New Yorkers
14 cannot bear this economic burden waiting to
15 see if this somewhat dubious political theory
16 comes to pass. As Ron Deutsch noted, there
17 are studies to suggest that there is wide
18 support for taxing the very wealthiest.

19 So finally, we just wish to stress
20 that the faith community does care a lot for
21 people in our state, in every part of our
22 state. We are at the front lines of caring
23 for the poor and the disenfranchised, and in
24 our caring we are guided by the principle of

1 loving our neighbors and living under the
2 promise of God's abundance.

3 We resist narratives of austerity, and
4 we're doing our part. And now we need the
5 State of New York to do their part -- raise
6 revenue at the top and lift the 2 percent
7 spending cap.

8 Thank you.

9 CHAIRWOMAN WEINSTEIN: Thank you.

10 MS. HILL: Good afternoon. I'm Dede
11 Hill from the Schuyler Center. Thank you for
12 this opportunity.

13 We are thrilled about the proposal in
14 the Executive Budget to expand the Empire
15 State Child Credit. I don't get to say that
16 a lot, that I am thrilled about a proposal
17 that is targeted at young children. But we
18 have it in this Executive Budget, and so I
19 just -- I want to lift that up and also want
20 to -- many in this room have heard us talk
21 about this for many years, about how it makes
22 no sense that our current child tax credit,
23 that is intended to offset the high cost of
24 raising children, omits young children.

1 And it particularly makes no sense
2 given what we know now, what all the
3 literature tells us about young children --
4 when their brains are developing, they're the
5 most vulnerable to the impacts of poverty.

6 And what we also know is that
7 investing in young children is really good
8 public policy. These investments, the return
9 on investment when you direct resources to
10 young children, they endure for a lifetime.
11 So again, we applaud the proposal to expand
12 the child tax credit to include young
13 children under the age of 4.

14 But we would also suggest that we have
15 an opportunity, because this proposal is in
16 the Executive Budget, to do this right. And
17 so -- and I would echo what Senator Krueger
18 suggested earlier, or was asking about
19 earlier. One group of children that is
20 omitted even under the proposed expansion of
21 the credit are our children who live in deep
22 poverty.

23 And 9 percent of New York children
24 live in deep poverty. And what that is is

1 they're living at half of the federal poverty
2 level. And the way that the tax credit is
3 currently structured is it doesn't begin to
4 phase in, it doesn't even start -- well, it
5 starts, but at a minimum, at 3,000, and then
6 it phases in slowly.

7 And so what we would propose is let's
8 drop in the credit at \$1 and drop it in at
9 the highest credit, so that we are directing
10 the most resources to the families who need
11 it the most.

12 In addition, let's make the young
13 child tax credit equitable with the credit as
14 it exists for older children. Under the
15 Governor's proposal, he caps the credit for
16 young children at \$50,000 of earnings,
17 whereas for older children it phases out
18 gradually at 75,000 or 110,000 for joint
19 filers. It should be equitable. We
20 shouldn't be still maintaining a subclass of
21 young children in our child tax credit.

22 And finally, we know that tax credits,
23 child tax credits, when they are robust can
24 be among the most effective ways to reduce

1 child poverty.

2 Child poverty in New York State has
3 persisted even as we've increased the minimum
4 wage, even as our unemployment is at record
5 lows. Our families cannot pull themselves
6 out of poverty, no matter how hard they work.
7 And so let's make our child tax credit really
8 robust. Let's increase it to \$1,000 for
9 young children, \$500 for older children.
10 This will really move the dial on child
11 poverty.

12 I'd also like to speak briefly about
13 another exciting proposal in the Executive
14 Budget, and this is around the Earned Income
15 Tax Credit. It would allow for the automatic
16 issuance of the Earned Income Tax Credit to
17 tax filers if they fail to claim it and are
18 eligible.

19 This is a great step. However, let's
20 also use this opportunity to strengthen the
21 Earned Income Tax Credit. And let's expand
22 it to include young adults. Currently young
23 childless adults 17 to 24, who experience
24 poverty at much higher rates than other

1 adults, are excluded from the Earned Income
2 Tax Credit. They are in fact taxed into
3 poverty.

4 And so let's change that, and let's
5 make them eligible for the Earned Income Tax
6 Credit. Let's help them get a foothold in
7 the workforce when they're starting out, and
8 help to make work pay.

9 I'm going to leave it there, but I'm
10 happy to answer questions.

11 CHAIRWOMAN WEINSTEIN: Thank you.

12 You all were very thorough, as well as
13 the accompanying testimonies, which we've
14 read in advance. So we thank you very much
15 for being here, and there are no questions at
16 this time. Thank you.

17 CHAIRWOMAN KRUEGER: Thank you.

18 CHAIRWOMAN WEINSTEIN: Next we have
19 Michael Kink, Strong Economy for All
20 Coalition, and Charles Khan.

21 They'll be followed by Roc NORML, to
22 be followed by National Federation of
23 Independent Business.

24 MR. KHAN: Good afternoon. I'm very

1 grateful for the opportunity to be able to
2 speak in front of you.

3 I just want to touch on a couple of
4 points. I think if you read our testimony,
5 all 14 options that E.J. McMahon was talking
6 about that would tax the ultra-wealthy, to
7 the benefit of everyone else in New York
8 State, are included.

9 And a couple of -- I just wanted to
10 kind of talk about the status of what
11 New York looks like right now. We have
12 corporate profits across the country and in
13 New York at an all-time high. The number of
14 billionaires, 112, higher than it's ever
15 been, with a higher net wealth than it has
16 ever been -- \$525 billion.

17 And what we've seen on the other end
18 is the number of homeless New Yorkers at
19 92,000, officially, but we know that the
20 unofficial numbers are much higher. We see
21 that in addition to record homelessness,
22 there are record levels of child poverty.
23 There are record numbers of New Yorkers that
24 are paying over 50 percent of their income in

1 housing, if they can afford housing at all.
2 We are seeing folks pay property tax that
3 need relief, middle-income families,
4 working-class families.

5 And really what we're seeing is that
6 while a small number of New Yorkers are
7 swimming in more wealth than they have ever
8 had, the rest of New York is drowning --
9 drowning in rent, drowning in property taxes,
10 drowning in higher costs.

11 And if we do not take any action and
12 we follow the Governor's proposals to cut
13 Medicaid -- which would be cutting healthcare
14 for the poorest New Yorkers -- and pushing
15 costs to local governments, that we are going
16 to make that situation much, much worse.
17 Local governments are already hamstrung by
18 the property tax cap. If we push almost \$2
19 billion of costs onto them, they will have no
20 choice but to cut their local services and
21 push even more costs onto poor New Yorkers.

22 We're seeing that the state is
23 shrinking, but we know that the number of
24 wealthy New Yorkers is growing. And as E.J.

1 McMahon said, you know, the people that he
2 has data on that are leaving New York, they
3 are not millionaires. They are not the
4 people we are talking about taxing.

5 We know that the folks that are
6 leaving New York are working class, middle
7 class, some upper middle class, and poor New
8 Yorkers. That is who we're losing. That is
9 who we're leaving behind. The numbers at the
10 top are growing at rates we've never seen,
11 and at the bottom we're losing, you know, the
12 fabric of New York.

13 MR. KINK: I was going to talk just
14 briefly on three of the specific points that
15 we've included in our testimony: The
16 billionaire wealth tax, the stock buyback
17 transfer tax, and the digital services or
18 data tax.

19 As Charles mentioned, we've got
20 112 billionaires living in New York with \$525
21 billion worth of wealth. Their wealth and
22 income has exploded over the last decade, as
23 everyone else's has stagnated or gone
24 backwards.

1 digital advertising to a company or a
2 political candidate.

3 Finally, the corporate stock buyback
4 transfer tax is not the whole stock transfer
5 tax, not the \$13 billion that we rebate every
6 year to Wall Street, but just a sales tax on
7 that portion of stock trading where it's
8 companies buying back their own shares. It
9 used to be illegal until 1982. Right now
10 they're mainly used where there are huge job
11 cuts and a transfer of corporate resources to
12 hedge funds and other short-term investors.
13 Just stock buybacks would raise \$3.2 billion
14 a year.

15 CHAIRWOMAN WEINSTEIN: Thank you for
16 your testimony today as well as the document
17 that you had previously emailed and that you
18 brought with you today that many of us have
19 already looked at.

20 Thank you again for being here. I'm
21 sure we'll continue to have discussions,
22 interactions as the budget negotiations go
23 forward. Thank you.

24 MR. KINK: Thank you.

1 CHAIRWOMAN WEINSTEIN: Next we have
2 Roc NORML, to be followed, as I mentioned, by
3 National Federation of Independent Business,
4 if you can work your way down, and then we
5 will have a panel with Indivisible Harlem and
6 Elizabeth Felicella.

7 Thank you.

8 MR. VANDEWALLE: Thank you to the
9 members of both chambers for having me here
10 today.

11 My name is Steve VanDeWalle, and I'm
12 an economic policy advisor to Roc NORML. We
13 are the Rochester chapter for the National
14 Organization for the Reform of Marijuana
15 Laws.

16 New York is en route to becoming the
17 12th state to legalize cannabis for adult
18 use, meaning we have 11 other states to look
19 at as case studies. We have an opportunity
20 to look at what's worked and what hasn't, and
21 use real data to shape smart cannabis policy
22 in New York.

23 And what the data continues to tell us
24 over and over is that tax structure

1 implementation is foundational to industry
2 success. And industry success directly
3 correlates with increased tax revenue. If
4 taxes on the supply chain are too high, these
5 costs get passed on to the consumer in the
6 form of high prices.

7 Let's look at two examples -- and all
8 of this data is in the handout that I've
9 given to you. California has an effective
10 tax rate in excess of 40 percent, a
11 population of roughly 31 million people age
12 21 plus, and in 2018 they earned an estimated
13 \$236 million in tax revenue from adult use
14 cannabis sales, meaning their per-capita
15 revenue was \$7.63 per person.

16 Colorado, on the other hand, has an
17 effective tax rate of nearly 30 percent, a
18 population of roughly 3 million adults age
19 21-plus, and in 2018 they earned an estimated
20 267 million in tax revenue from adult use
21 sales, meaning their per-capita revenue was
22 \$88 per person.

23 So let's wrap our heads around that
24 for a second. Colorado has one-tenth the

1 adult population of California, Colorado
2 generated roughly \$30 million more in tax
3 revenue than California, Colorado, made 8.7
4 times more money per person than California,
5 and Colorado's taxes were nearly 10 percent
6 lower than California.

7 So how is this even possible? Well,
8 Section 280-E of the U.S. Internal Revenue
9 Code Law prohibits traffickers of controlled
10 substances -- i.e., all legal cannabis
11 businesses -- from deducting all business
12 expenses except cost of goods sold. An
13 excise tax paid by cultivators -- which is
14 currently slated at 15 percent in New York --
15 that would otherwise be a deductible business
16 expense becomes nondeductible by virtue of
17 280-E, ultimately increasing downstream
18 retail prices in an attempt to obtain what
19 little margin still exists. Retail prices
20 become unaffordable, forcing consumers back
21 into the less expensive unregulated market.

22 And while I understand that there are
23 members of this body who would vote against
24 adult use legalization, I think we can all

1 agree on the fact that there is currently a
2 thriving unregulated market in our state and
3 it would be in everybody's best interest to
4 mitigate it.

5 The unregulated market does not
6 collect tax revenue, nor does it have quality
7 or safety standards. And being in the middle
8 of a vape crisis, which the CDC has confirmed
9 to be caused in large part by illicitly made
10 cannabis products, we must do everything we
11 can to shrink this market and protect the
12 health and safety of consumers.

13 Now, with all this data that we have
14 from the 11 states who have legalized
15 already -- which, again, is in the handout
16 I've given to all of you -- and what we know
17 about the relationship between high
18 supply-chain taxes and the effects it has on
19 the rise and fall of the illicit and
20 regulated markets respectively, why in the
21 world is New York slated for a
22 highest-in-the-nation effective tax rate of
23 46 percent?

24 Especially when one of the goals of

1 this legislation is to create an industry
2 framework that is equitable and diverse and
3 supports small craft businesses.

4 New York's flourishing craft beer
5 industry has created the equivalent of
6 approximately 20 full-time jobs and produces
7 \$3.4 billion in economic output annually.
8 And according to a 2019 report by the
9 Rockefeller Institute, the adult use cannabis
10 industry will surpass these numbers if and
11 only if an appropriate industry is
12 implemented.

13 Long story short, high taxes lead to
14 high prices, which leads to a rise in the
15 nontaxable, unsafe, unregulated market.

16 New York truly has the opportunity to
17 implement gold-standard cannabis policy
18 which, if done correctly, will be used as a
19 model for other states that have yet to
20 legalize.

21 Thank you again for having me today,
22 and I'm open to questions.

23 CHAIRWOMAN WEINSTEIN: Thank you
24 for -- thank you for being here. At the

1 moment there are no questions. We have your
2 submission also. I'm sure there will be
3 discussions as we continue along.

4 Thank you.

5 MR. VANDEWALLE: Thank you.

6 CHAIRWOMAN WEINSTEIN: Next, we have
7 National Federation of Independent Business,
8 Greg Biryla.

9 Feel free to begin.

10 MR. BIRYLA: Thank you very much.

11 As mentioned, my name is Greg Biryla.

12 I'm the New York State director for NFIB,
13 also known as the National Federation of
14 Independent Business.

15 We are the nation's and the state's
16 leading small business advocacy association.
17 NFIB is a member-driven organization
18 representing hundreds of thousands of small
19 businesses across the country, and 11,000
20 right here in New York State. NFIB members
21 define our neighborhoods, fill our
22 communities with character, create local jobs
23 and home-grown economic opportunity.

24 And I do want to stress that,

1 home-grown economic opportunity. If you talk
2 to anybody in business, they will tell you
3 it's much cheaper and easier to keep a
4 customer that you already have than to get a
5 new one. We spend a lot of time trying to
6 attract new businesses to this state; we need
7 to spend a little more time paying attention
8 to the ones that we have that are already
9 creating jobs.

10 Small businesses employ nearly half
11 the state's workforce -- 4 million
12 New Yorkers. I trust you all recognize and
13 value the importance of small business in
14 your home districts. It's also important to
15 keep businesses in mind when considering the
16 wide-ranging impacts set forth during this
17 budget process.

18 New York's reputation as a high-tax,
19 difficult-to-do-business state is
20 well-established and has been talked about at
21 length here today. That being said, New York
22 State has taken some positive steps in recent
23 years, including making the property tax cap
24 permanent last year. What has been absent is

1 targeted tax relief for New York's small,
2 independent local business, and that is
3 exactly what I want to discuss today.

4 In his budget the Governor advanced a
5 welcome small business tax relief proposal
6 that will benefit approximately 36,000 small
7 businesses. The Governor's proposal achieves
8 this by reducing the corporate tax rate from
9 6.5 percent to 4 percent for small businesses
10 employing less than 100 workers and reporting
11 less than \$390,000 in business income.

12 The Governor's proposal also expands
13 the income exemption to 15 percent for small
14 farms and sole proprietors earning less than
15 \$250,000.

16 I want to be clear; NFIB, our members,
17 and membership organizations like ours
18 support the Governor's proposal. It will
19 help thousands of small businesses organized
20 as C-corps, sole props, and small firms.
21 Many types of businesses are organized as
22 such.

23 Generally speaking, however, most
24 businesses are organized as entities whose

1 tax passes through the business and is paid
2 as the owner's personal income tax. Some of
3 these pass-throughs are organized as sole
4 proprietors, but most are constructed as
5 LLCs, partnerships and S-corps. They do not
6 pay a corporate franchise tax and will not
7 qualify for the expanded income exemption.

8 Today I want to ask the panel and both
9 houses of the Legislature to build upon the
10 Governor's initiative and support a
11 bipartisan-backed solution to achieve broader
12 tax relief for additional small businesses
13 trying to grow and hire in New York. The
14 proposal I speak of already exists and
15 mirrors the Executive proposal in many ways:
16 S5954/A6309, sponsored by Senator Anna Kaplan
17 and Assemblyman Robin Schimminger.

18 This legislation includes the
19 Governor's proposal to reduce the corporate
20 tax rate but extends that 15 percent income
21 exemption to all types of pass-through small
22 businesses, not just sole props and small
23 farms.

24 Last month 34 organizations, including

1 statewide advocacy groups like NFIB, regional
2 and community chambers of commerce, and trade
3 groups, wrote legislative leaders to announce
4 their strong support for the Governor's
5 proposal and a broader approach to tax relief
6 that will support the entire spectrum of
7 small businesses and encourage
8 community-driven economic growth and
9 opportunity. That letter is included with
10 the testimony I submitted today.

11 Also today, this year, we have an
12 opportunity to provide some modest relief on
13 the other side of the balance sheet for small
14 businesses who pay, as discussed, extremely
15 high taxes, high workers' compensation
16 insurance costs, high unemployment insurance
17 costs. In a regulatory environment in
18 New York that can be stifling, we have an
19 opportunity to provide some relief on the
20 other side for truly small businesses.

21 There is a big difference between Main
22 Street and Wall Street. There is a big
23 difference between small biz and big box.
24 It's time that our tax code and the way it

1 treats small businesses and employers
2 recognizes those differences.

3 Sixty-seven cents of every dollar
4 spent at a small businesses stays within the
5 local economy. Small businesses' profits and
6 wages stay local, and small businesses spend
7 resources in their community. I think these
8 are things that we can all support and get
9 behind.

10 I'll close my comments and answer any
11 questions that the panel may have.

12 CHAIRWOMAN WEINSTEIN: Thank you.

13 Assemblyman Ra has a quick question.

14 ASSEMBLYMAN RA: Good afternoon.

15 Thank you for being here.

16 MR. BIRYLA: Thank you, Assemblyman.

17 ASSEMBLYMAN RA: So your letter
18 obviously shows a broad base of support for
19 doing that more expanded proposal that is
20 referenced in the stand-alone bill.

21 But do you have any idea just in terms
22 of how many more businesses, whether in
23 numbers or percentages, that proposal would
24 impact and help, as opposed to the one that's

1 in the budget?

2 MR. BIRYLA: Sure. I can give you a
3 rough idea, an idea. And as mentioned
4 earlier today, some of the materials -- or
5 some of the information and data isn't that
6 easy to identify. It doesn't always rank or
7 give that data based on how a certain
8 business is incorporated.

9 But using some of the Governor's
10 numbers and some of our own insight into
11 small businesses across New York State, we
12 estimate that expanding the Governor's
13 proposal will increase, at the very least,
14 another 65,000 small businesses. That's how
15 many businesses will fit through those two
16 gates that you would need to -- less than 100
17 employees, and then a certain level of
18 income.

19 So combined with the Governor's
20 proposal that includes -- or that would
21 benefit 36,000 businesses, we are hopeful
22 that a full proposal could benefit close to
23 100,000 small businesses across the state.

24 And with the business income cap,

1 you're really talking about true small
2 businesses.

3 ASSEMBLYMAN RA: Okay. Thank you.

4 CHAIRWOMAN WEINSTEIN: Thank you.
5 That's all the questions we have for you
6 today.

7 MR. BIRYLA: Thank you, everybody.

8 CHAIRWOMAN WEINSTEIN: Thank you.

9 Next we have a panel, Indivisible
10 Harlem, Rebecca Saletan, Allison Downing, to
11 be joined by Elizabeth Felicella, member of
12 Empire State Indivisible.

13 Just a reminder to the two from
14 Indivisible Harlem, you have five minutes to
15 share amongst -- for the two of you. So just
16 make sure whoever goes first, leave time for
17 the second person so that everybody is happy
18 and we get to hear your important remarks.

19 And just before you get started, I
20 just want to go through some of the next
21 witnesses. American Automotive Leasing
22 Association, New York State Assessors
23 Association, and DSA Debt and Finance Working
24 Group representative. These people just make

1 their way down if you're not already sitting
2 there.

3 You can choose whoever wants to go
4 first; just identify yourself. Thank you.

5 MS. DOWNING: Hi.

6 CHAIRWOMAN WEINSTEIN: Feel free to
7 start.

8 MS. DOWNING: Hi. My name is Allison
9 Downing, and I live in Morningside Heights in
10 Manhattan, represented by Senator Robert
11 Jackson and Assemblymember Danny O'Donnell.

12 Here is one of 20 million stories
13 about how New York's abject failure to
14 appropriately tax its most fortunate
15 residents has affected me. I'm fine. I'm
16 not on Medicaid, I don't live in public
17 housing, my son last attended a public school
18 almost 10 years ago, and I work from home, so
19 I'm not on public transit every day. I have
20 a really nice life -- except, that is, for
21 the intense and persistent terror that our
22 fragile democracy is collapsing under the
23 weight of all the money that is pressing down
24 on us instead of lifting us up.

1 So I will speak on behalf of my
2 neighbors and fellow New Yorkers, for whom
3 the weight of that money is anguishingly
4 heavy. I live across the street from a
5 shelter for mothers with young children who I
6 believe are domestic violence victims,
7 although they won't tell me for sure whether
8 that's the case. Which they shouldn't.

9 Things had not gone well for me when
10 my family and I moved onto our street, but
11 then I unpacked -- I had been stressed about
12 things -- we unpacked, I settled in and I
13 started paying attention to the activity at
14 the shelter across the street.

15 This home of last refuge for so many
16 of my neighbors is a beehive of activity.
17 People are constantly moving in and out,
18 little babies are crying because it's too
19 early or too late, but they have no choice,
20 they can't nap. The kids have to get on
21 school buses at 6:30 in the morning because
22 it takes so long to get to their faraway
23 schools. Moms are crying into their phones
24 that they need their WIC benefits, and

1 kids are playing down the street in the park,
2 sometimes without things like winter coats or
3 gloves.

4 I realize that as miserable as my move
5 had been, it was nothing compared to what
6 these families had been going through all the
7 time. Every day I'm a passive observer of
8 and unintentional eavesdropper on stresses
9 and traumas that eclipse almost anything I
10 have ever gone through. Every day I worry
11 for my neighbors, these moms and their
12 children who have no certainty that they will
13 end up safe. So I am here for them.

14 New York has enough money to properly
15 house all of our families, especially ones in
16 trauma. New York has enough money not to
17 make domestic violence victims work 12 hours
18 a day. New York has enough money to make
19 sure that each child can get a wonderful
20 education close to home. And you have the
21 power to make it happen.

22 You can choose to help the vulnerable.
23 You can choose to reshape our system so that
24 the extremely lucky share their great good

1 fortune with those who most need the help. I
2 understand that the budget dynamics unduly
3 favor the Executive, but I would urge you to
4 nevertheless stand together and insist that
5 you will not vote for any budget that does
6 not properly tax the extraordinarily wealthy.

7 If all of you and all of your
8 colleagues stood together and said no, we
9 will not choose between Medicaid and CFE
10 funding, we will not say no to the climate
11 because we only have enough to say yes to
12 transit cops, we will not take from upstate
13 housing to give to Long Island senior
14 centers, we will vote for a system in which
15 the billionaires protect the vulnerable --
16 you would change the world.

17 The trying to do this is incredibly
18 important. There is no shame in trying to
19 change the world. And in fact the shame is
20 in not trying. I ask you to refuse to pass
21 any budget that doesn't require billionaires
22 and ultra-millionaires to help out their
23 neighbors, and especially don't give
24 oligarchs who use New York City real estate

1 as a place to launder and park their vast
2 wealth any passes whatsoever.

3 We are all in this together, and you
4 as the people's elected representatives get
5 to decide whether you want to help keep 9,000
6 people's unimaginable wealth remain untouched
7 or whether you want to help 20 million New
8 Yorkers' lives get better.

9 Thank you.

10 CHAIRWOMAN WEINSTEIN: Thank you.

11 MS. SALETAN: I'm Becky Saletan. I'm
12 a member of Indivisible Harlem, which is a
13 citizen action group that has
14 enthusiastically and passionately joined in
15 the budget justice campaign, along with a
16 number of advocacy groups. I'm also a
17 constituent of Senator Brian Benjamin here,
18 and Assemblymember O'Donnell.

19 I just want to -- it really strikes
20 me, being here, I've never testified before
21 and I know that we are not the people you
22 usually hear from, we're not the numbers
23 people or the nuts-and-bolts people. And we
24 know that often the people you are hearing

1 from are people who are talking about needs,
2 our advocacy partners here to talk to the
3 various committees that deal with the issues
4 that they're concerned with.

5 And so many of us got into activism
6 because, you know, we're the blue wave, we're
7 the folks who were perhaps a little asleep at
8 the wheel before 2016, and we got in because
9 we had particular issues we were concerned
10 about in this contemporary landscape --
11 environment, reproductive rights, and so on.
12 And a lot of advances, from our point of
13 view, happened last year thanks to the change
14 in the structure of the Legislature here in
15 New York.

16 But issues that we cared about that
17 had to do with spending hit a complete wall.
18 And as we got to know our advocacy partners
19 who had worked on those issues year after
20 year after year, we knew that that was not a
21 new thing, that year after year they were
22 being told there's not enough money, we're in
23 austerity times, we can't afford it.

24 Some of us are personally impacted by

1 those issues. Some of us are here on behalf
2 of those who we work with daily on these
3 campaigns who are impacted. In Indivisible
4 Harlem, for example, yesterday two of our
5 members took off the time from work, put
6 their kids in childcare, and were here with
7 AQE to talk about the need for education
8 funding, the \$4 billion in CFE that was
9 promised 10 years ago, and court-ordered, and
10 still has not been paid.

11 But at any rate, so some of us are
12 personally impacted, some of us are here on
13 their behalf, but -- so some of the people in
14 those polls you've heard about are the people
15 who are personally impacted, but some of them
16 are people like us, who, as Allison said,
17 don't necessarily have the strongest personal
18 stake, but we care about the state of our
19 state and what it's becoming.

20 I put two kids through public schools
21 in New York City. I saw firsthand, as the
22 head of PTA fundraising for two years, how
23 inequitable this system is. My kids were in
24 a richer, better-heeled school with parents

1 who could kick in.

2 So we -- we -- you know, we're here
3 because we care about what that school is
4 getting. Those two girls have now graduated
5 college. I want them to be able to settle in
6 New York, but I worry not about just the
7 future that they're going to be able to make,
8 but the future that they are -- the state of
9 the state that they're inheriting. This
10 extremely unequal place that is losing its
11 social -- sorry about that -- that is having
12 its social fabric rent and its physical
13 infrastructure taxed. That is not a good
14 thing for any of us. And there's no reason
15 it should be so.

16 CHAIRWOMAN KRUEGER: Thank you.

17 MS. SALETAN: We're an extremely
18 wealthy state.

19 Thank you.

20 CHAIRWOMAN KRUEGER: Thank you.

21 MS. FELICELLA: Hi. I'm Elizabeth
22 Felicella, and I am part of a neighbor group,
23 Morningside Heights --

24 CHAIRWOMAN KRUEGER: Would you pull

1 the mic up a little closer to your mouth?

2 MS. FELICELLA: Sure.

3 CHAIRWOMAN KRUEGER: Thank you.

4 MS. FELICELLA: I am a member of
5 Morningside Heights Resistance. We are a
6 neighbor group to Indivisible Harlem. We're
7 also working on budget justice. And I'm
8 speaking on behalf of my tenant association
9 today.

10 I live in a rent-stabilized building
11 in the Manhattan Valley neighborhood in
12 New York City. Most of my neighbors have
13 lived there more than 15 years. It's a
14 stable, diverse building with continuity, at
15 this point, over two, sometimes three
16 generations.

17 I would like to focus on the work that
18 my neighbors do. We work a wide variety of
19 jobs, which I've listed. Some of these are
20 providing services; others are contributing
21 to revenue-generating industries. As a
22 group, we are providing important services.
23 Many of us came to New York, whether it was
24 from other countries or other states, for the

1 economic and professional opportunities that
2 were offered. And so in short, our building
3 generates tremendous value through the work
4 that my neighbors and I do.

5 Yet every year not only are our lives
6 impacted, directly or indirectly, by the
7 State Budget -- our work, our professional
8 lives, are too, our working lives. Whether
9 this is inadequate funding for hospitals or
10 schools that my neighbors work in, cuts to
11 publicly funded continuing education or
12 training programs, reduction in grants for
13 cultural programming, or the ongoing
14 deterioration of basic infrastructure like
15 the subways and roads that we use to get to
16 and from work.

17 And we are told every year that these
18 cuts are necessary, that they are
19 unavoidable, that there is austerity in
20 New York.

21 And this section I'm going to read
22 word for word. And yet the block we live on,
23 including the building we live in, points to
24 something very different. In the last 10

1 years almost two-thirds of the buildings on
2 my block were sold. Most of those buildings
3 are now owned by just two landlords. Our
4 building, which caps a corner of the block,
5 was the most recent sale. It contains 49
6 apartments, almost a third of which are
7 empty. In 2018 the building's market value
8 was roughly \$5 million. The tax-assessed
9 value was 2 million. Later that year it sold
10 for close to 26 million.

11 Who gains in this kind of predatory
12 scenario? Not the tax roll. This is a
13 building that sold for \$26 million. The next
14 year, that sale had no impact on its
15 tax-assessed value at the city level. So the
16 annual property taxes paid to New York City
17 on this building that sold for \$26 million in
18 2019 was \$250,000, less than 1 percent of the
19 sale price.

20 Assuming the mortgage tax was paid, it
21 would have been roughly 324,000 to the city
22 and 90,000 to the state. No transfer tax was
23 paid, we don't know why. And in terms of
24 state income tax, the LLC is registered in

1 Delaware.

2 And so the answer to this question who
3 gains in this kind of predatory scenario is
4 only the owner, its lender, JPMorgan Chase --
5 a bank that happened to receive an enormous
6 public bailout in 2008 -- and perhaps the
7 political campaigns that the owner and that
8 the bank contribute to to maintain the status
9 quo.

10 The new rent laws that passed last
11 year are critical protections, but there is a
12 looming sense in our building that we are up
13 against something much larger.

14 We are supporting the 14 revenue
15 proposals that were presented by Strong
16 Economy for All. They would not directly or
17 immediately remedy the situation in my
18 building, but they would begin to address the
19 enormous damage that is caused when
20 speculation takes over a neighborhood.

21 Namely, our building has been
22 destabilized, and there is a sense among my
23 neighbors that we generate value for New York
24 and yet we are in a squeeze. Most of us are

1 working low-to-moderate-income jobs. We
2 can't simply opt out of underfunded public
3 services for private services --

4 And I'll close there. Sorry.

5 CHAIRWOMAN KRUEGER: That's okay.

6 CHAIRWOMAN WEINSTEIN: Thank you.

7 CHAIRWOMAN KRUEGER: Thank you. We
8 have the written also.

9 Senator Brian Benjamin.

10 SENATOR BENJAMIN: First of all, I
11 want to say -- wait, five minutes for me,
12 please. Because it is five minutes. It said
13 three.

14 CHAIRWOMAN KRUEGER: No, it's three
15 this time.

16 SENATOR BENJAMIN: All right, I'll be
17 quick.

18 First of all, I want to say I really
19 appreciate the work of Indivisible Harlem and
20 Empire State Indivisible, because they have
21 done a lot of good stuff and I've seen it
22 firsthand. So I want to thank you for all of
23 your hard work and your activism.

24 Let me ask a real basic question.

1 and think that's going to be enough. We're
2 really talking about a package that can
3 address the real needs that there are and
4 start to make a down payment on the climate
5 and all the other things that we -- that are
6 critically at issue.

7 SENATOR BENJAMIN: That's a fair
8 point. There is a 2 percent spending cap
9 that is there. Whether -- you know, we could
10 talk about that another time, but --

11 MS. SALETAN: It's not the law.

12 SENATOR BENJAMIN: Fair enough. So
13 you don't want to answer the question?

14 MS. SALETAN: Excuse me?

15 SENATOR BENJAMIN: You don't have any
16 particular favorites here, or you think they
17 all --

18 MS. SALETAN: We can talk offline
19 about that and the pros and cons as you -- I
20 know you've been studying them and examining
21 them.

22 But again, we're not the experts in
23 the tax measures. I know this is a tax
24 committee, but there are a number -- there's

1 a whole buffet of possibilities here. The
2 point is there's lots.

3 SENATOR BENJAMIN: Right.

4 MS. FELICELLA: What I was trying to
5 address in my testimony, and this is in some
6 of the 14 proposals, is that work, necessary
7 work, everyday work is taxed.

8 You know, we all pay taxes. And
9 there's a sense that particularly the real
10 estate industry is -- I don't even know who
11 owns my building, that they are completely --
12 there's a kind of lawlessness or an
13 unaccountability.

14 And so any of these -- the luxury land
15 tax, for example, seems incredibly important.
16 I mean, the -- although that again is not my
17 district, it's -- it's -- Hudson Yards was
18 built gerrymandering a map to include Harlem
19 in order to qualify for the EB-5 program, I
20 believe it was. Which is criminal. And yet
21 this has become normal.

22 And so any of these measures that
23 somehow try to recalibrate something which
24 has clearly gone kind of very wrong -- and

1 for me, that is very much the real estate.

2 SENATOR BENJAMIN: Thank you very
3 much.

4 CHAIRWOMAN WEINSTEIN: We go to
5 Assemblyman Braunstein first.

6 ASSEMBLYMAN BRAUNSTEIN: Thank you.

7 I just want to make a quick statement.
8 You talked about your concern about the
9 inequity in the property tax system, and the
10 mayor and the City Council have released the
11 recommendations of a commission to fix a lot
12 of that inequity.

13 The more detailed proposal is going to
14 come out this summer, and many of us here are
15 going to work to try and see if we can -- it
16 has to come through the state and we're going
17 to try to make those changes to level the
18 playing field.

19 Because right now, like you pointed
20 out, extremely expensive properties are
21 paying effective property tax rates lower
22 than middle-income families, especially in
23 the outer boroughs. So we're working to make
24 those changes.

1 Thank you.

2 CHAIRWOMAN WEINSTEIN: Thank you.

3 Assemblywoman Dickens.

4 ASSEMBLYWOMAN DICKENS: Thank you,
5 Madam Chair.

6 Thank you for your testimony. And I
7 want to say that this is the first time I've
8 really heard anyone bring up the -- what
9 happened with the Hudson Yards about the map
10 was drawn up the river in order to include
11 Harlem so that it would qualify for the
12 Opportunity Zone credits.

13 What are you proposing to do about it?
14 I've written about it, I wrote an article
15 about it, and I have been hollering about it.
16 And I have not had anybody to join in with me
17 in that.

18 MS. FELICELLA: I have to admit I have
19 -- I'm not an expert in any of that.

20 ASSEMBLYWOMAN DICKENS: Neither am I.

21 MS. FELICELLA: But I -- coming at it
22 from just the -- the narrative point of view,
23 I think that the more people know about this,
24 the more they know that there are things that

1 happen that are very wrong but that are in
2 fact legal. And so how to somehow get those
3 things more closely aligned.

4 And I think a piece of that is more
5 conversation and public education on these.
6 I don't know if that answers you --

7 ASSEMBLYWOMAN DICKENS: You ask me,
8 I'll tell you how it got done.

9 MS. SALETAN: Can I just add on to
10 that? That that public outreach and pressure
11 is growing. And I think you will not find
12 yourself as alone as you may have found
13 yourself before, because we are determined to
14 continue that until people understand what
15 these practices are, what the opportunities
16 are, what the inequities in our budget
17 process are, and you will be facing a
18 mounting tide of pushback.

19 It's already happening. You see it in
20 the press, you see it in the response from
21 your constituents.

22 ASSEMBLYWOMAN DICKENS: Because as a
23 result of that, the Harlem community did not
24 benefit at all.

1 MS. SALETAN: Yes, we know.

2 ASSEMBLYWOMAN DICKENS: Thank you.

3 Thank you, Madam Chair.

4 CHAIRWOMAN WEINSTEIN: Thank you.

5 Thank you three for being here tonight.

6 CHAIRWOMAN KRUEGER: Thank you very
7 much.

8 CHAIRWOMAN WEINSTEIN: Next, American
9 Automotive Leasing Association, David Rosen.

10 CHAIRWOMAN KRUEGER: I wouldn't want
11 to come after Indivisible. I don't know.

12 MR. ROSEN: Good afternoon. My name
13 is David Rosen. I'm general counsel for the
14 American Automotive Leasing Association.

15 The association represents fleet
16 leasing companies operating across the United
17 States. Fleet-leased vehicles are leased to
18 small businesses, nonprofits, government
19 entities and corporations with small
20 divisions, and the vehicles range from
21 passenger cars to cargo vans, trucks that are
22 customized and outfitted for a specific
23 business purpose.

24 These are vehicles that you see in

1 your communities across New York every day
2 and are operated by your constituents that
3 are operating these sort of entities and
4 businesses -- you know, for example, being
5 electrical and plumbing repair service
6 providers, telecommunication installation
7 providers, beverage and food distributors,
8 and fuel delivery companies.

9 And in New York, the members of this
10 organization own over 82,000 vehicles on
11 New York roads, and approximately a third of
12 those are replaced each year with safer and
13 more fuel-efficient vehicles.

14 Commercial motor vehicle leases have a
15 unique structure that encourages customers to
16 keep newer, safer and cleaner motor vehicles
17 on New York roads. Unlike conventional
18 consumer motor vehicle leases, commercial
19 leases are essentially month to month after
20 an initial stated term of around a year.

21 Whenever the customer decides to
22 return the vehicle, an adjustment is made to
23 the lease obligation based on how much that
24 vehicle was expected to be worth at the time

1 that vehicle was turned in, and how much that
2 vehicle is actually worth when it is sold at
3 auction, at a wholesale auction.

4 That adjustment, which is called a
5 TRAC adjustment, under a certain provision of
6 the lease basically results in either a
7 payment, an additional payment to the lessor,
8 to the leasing company, or back to the
9 business that's leasing the vehicle.

10 If the vehicle is in better condition
11 and has a higher actual value than what was
12 expected under the lease, that business
13 that's leasing the vehicle gets an additional
14 refund of overpaid rent.

15 And conversely, if the vehicle is in
16 worse shape -- because the lessee keeps it
17 for longer or it's subjected to intense
18 use -- an additional lease payment is due to
19 the lessor. And basically this provides
20 businesses with an economic incentive to keep
21 their vehicles in good shape.

22 In 1992 the Legislature passed a law
23 that applies to these sort of lease
24 transactions for sales tax purposes, where

1 the tax is due on the first 32 months and
2 then on a month-to-month basis. However, the
3 Legislature failed to specifically address
4 what is the hallmark of this transaction,
5 which is that lease payment adjustment of the
6 consideration due under the lease.

7 Currently, if there's additional
8 consideration paid to the lessor, sales taxes
9 is logically paid on that. However, the
10 Department of Taxation and Finance has taken
11 the position that if a customer receives a
12 refund back of that total consideration, it
13 is not entitled to receive the benefit of the
14 sales tax overpaid on that overpaid lease
15 consideration.

16 And New York is the only state in the
17 country that collects sales tax on the
18 underpayments when an additional payment is
19 made to the lessor, but not provide any
20 consideration back for sales taxes on the
21 overpayment.

22 AALA and its members request that the
23 provisions contained in Senate Bill S3067A,
24 by Senator Breslin, and Assembly Bill A4070A,

1 by Assemblyman Schimminger, be included in
2 the final enacted budget that would correct
3 this unfair situation.

4 Currently all companies -- leasing
5 companies and other retailers in New York
6 fill out a sales tax return every month, or
7 fill it out every quarter but with monthly
8 remittances. This would be the same process
9 under these proposed measures that we're
10 discussing here. No change would be required
11 to the department's systems or processes, and
12 refunds would be provided to these businesses
13 operating in New York that are keeping their
14 vehicles in good shape and receiving a refund
15 of lease consideration.

16 Essentially, the legislation corrects
17 the unfair tax treatment by allowing these
18 leasing companies to adjust their taxable
19 sales to accommodate TRAC underpayments and
20 overpayments, instead of the current
21 situation where the state collects sales
22 taxes on any additional payments made due to
23 additional payments made to leasing
24 companies, but doesn't provide any sales tax

1 consideration back to customers for refunds
2 that are made by the lessor due to refunds of
3 overpayments made to businesses in this
4 state.

5 Thank you very much.

6 CHAIRWOMAN KRUEGER: Thank you.

7 CHAIRWOMAN WEINSTEIN: Thank you for
8 being here. Thank you.

9 Next, New York State Assessors
10 Association, Scott Shedler and Warren
11 Wheeler.

12 MR. WHEELER: Good evening. I will
13 cut to the chase.

14 My name is Warren Wheeler. I'm the
15 executive director for the New York State
16 assessors association. And with me here is
17 the president of our association, Scott
18 Shedler.

19 You've all got our written testimony,
20 but I did want to just jump right in and just
21 say that we oppose any changes to STAR.
22 Right now we would like to see there be no
23 forced moving over from the exemption into
24 the STAR check program. Currently there's

1 enough confusion going on, and we feel this
2 would only exacerbate that.

3 One thing we would like to push for
4 would be to have the exemption and the STAR
5 check credit be equal. There shouldn't be an
6 increased benefit for one over the other,
7 considering they're supposedly for the same
8 tax savings for the school taxes.

9 And lastly, we'd like to offer some
10 advice on streamlining the program for our
11 senior citizens, which we refer to as the 467
12 with limited income -- specifically, those
13 individuals that are not required to file
14 income taxes. As you may be aware, there's
15 been some confusion with the overburdening of
16 excessive requiring of information for them.

17 So that's what I've got on STAR, and
18 I'll turn it over to Scott now.

19 MR. SHEDLER: Okay, I'm just going to
20 get right to the points in the summary before
21 the Arctic air hits us and the whole State of
22 New York.

23 Last year I testified before you on a
24 number of factors that impacted STAR. Well,

1 guess what, I had a crystal ball. Every one
2 of those issues came true. The public was
3 frustrated with the changes.

4 Although the Department of Taxation
5 and Finance, under the leadership of
6 Commissioner Schmidt, has made an
7 unbelievable effort to assist us in this
8 change, there's been frustration throughout
9 the entire state. We're dealing with
10 problems with seniors and other property
11 owners that are just dealing with all these
12 changes.

13 So as we testified last year,
14 everything has come true. The public is
15 totally stressed on this issue.

16 But I do recognize that the
17 commissioner and every level of his staff at
18 DTF have been working with us to try to work
19 out a lot of these issues.

20 Basically, I want to conclude with
21 basically saying that as you're concluding
22 tonight and you're looking at all these
23 issues and you're looking to formulate your
24 own budgets in both the Assembly and the

1 Senate, I want you to think about some of the
2 things that the Harlem group said. They
3 pointed out some good facts.

4 Big business is benefiting in certain
5 circumstances. Please, if you're looking at
6 changing any proposed tax exemptions for big
7 businesses -- telecommunications companies,
8 like Assembly Bill 8201 and Senate Bill
9 6511 -- listen to the people from Harlem that
10 they talked about that loophole in that
11 legislation that allowed Hudson Yards to get
12 approved and tie into Harlem.

13 These similar bills are looking to do
14 the same thing. They're looking to give tax
15 exemptions to multi-billion-dollar companies
16 at the expense of the property owners that
17 struggle every day and are dealing with the
18 SALT issue as well as the current rebate
19 program expiring.

20 So keep these in mind when you're
21 developing your own budgets, and just keep
22 all our residents in mind first.

23 And I want to thank you, and safe
24 travels tonight.

1 CHAIRWOMAN WEINSTEIN: Thank you.

2 We have a question from Sandy Galef,
3 Assemblywoman Galef.

4 ASSEMBLYWOMAN GALEF: Just a quick
5 question. Homestead, non-homestead with
6 condominiums. I know you have an opinion to
7 support what the Governor has proposed, but
8 it doesn't go far enough. And we'd like to
9 see more an extension of that. Could you
10 elaborate on it?

11 MR. WHEELER: Well, you know, as
12 probably one of the few assessors that
13 doesn't have any condos to deal with, I'm
14 speaking on behalf of those that I have
15 spoken with that do have condominiums.

16 And the biggest issue that you're
17 aware of is that it's kind of like a loophole
18 where it offers a -- it's basically a tax
19 break for those individuals that purchase the
20 property under condominium ownership.

21 If you look at the property from the
22 road, you cannot tell whether it's a
23 single-family or a condo. But when you go to
24 look at the tax bill, there's a significant

1 difference, sometimes as much as 30 to 40
2 percent in reduction in the taxes, just
3 because it's received condominium status.

4 So our association has been, for as
5 long as I've been a part of this association,
6 advocating for the end to the condominiums
7 going forward so that they would be treated
8 like every other property and pay their fair
9 share.

10 ASSEMBLYWOMAN GALEF: In New York
11 City -- that's one of the proposals,
12 actually, in the New York City commission
13 report dealing with the condominiums and
14 co-ops. Whether it will happen or not, I
15 don't know. But it's in the bill.

16 CHAIRWOMAN WEINSTEIN: Thank you.

17 CHAIRWOMAN KRUEGER: Thank you.

18 CHAIRWOMAN WEINSTEIN: Thank you for
19 being here.

20 MR. SHEDLER: Thank you.

21 MR. WHEELER: Thank you.

22 CHAIRWOMAN WEINSTEIN: Our last
23 witness is -- I'm not sure I'm pronouncing
24 correctly -- Nahuel -- is Nahuel Fefer here?

1 Oh, okay.

2 MR. FEFER: No-well Fefer.

3 CHAIRWOMAN WEINSTEIN: No-well, okay.

4 Sure, go ahead.

5 MR. FEFER: Good evening. It's an
6 honor to be here.

7 My name is Nahuel Fefer. I'm a
8 student studying tax and constitutional law
9 at NYU. I'm here today representing DSA, the
10 Democratic Socialists of America.

11 I want to open with some words from
12 former New York Governor Franklin Delano
13 Roosevelt, who in 1932, at the Democratic
14 Convention, declared: "While they prate of
15 economic laws, men and women are starving.
16 We must lay hold of the fact that economic
17 laws are not made by nature, they are made by
18 human beings."

19 It's a simple idea, but it has radical
20 implications. It means that there's no such
21 thing as a free market, because markets and
22 property, for that matter, are social
23 constructs. It means that extreme levels of
24 racial disparities and economic inequality

1 are not natural or inevitable, they're a
2 function of public policy.

3 Finally, it means that we have a
4 responsibility to establish democratic
5 control over markets which are no longer
6 serving the public good. And let me be
7 clear, in case anyone in this room is under
8 any illusions: Market definitions of growth
9 and efficiency are killing us.

10 The quintessential example is climate
11 change, where markets consistently refuse to
12 account for the long-term costs of flooding,
13 drought, and extreme weather. But we see the
14 human tolls commodifying healthcare,
15 education, housing and water across the
16 United States.

17 I find the history of the American
18 corporation instructive. Historically, state
19 governments granted corporate status to
20 companies set up to build critical
21 infrastructure like canals, railroads,
22 bridges. Corporate status was a reward for
23 companies with a credible commitment to
24 advancing the public interest.

1 Today's corporations are multinational
2 giants with no loyalty to the communities
3 they occupy. While some add real value,
4 countless others rely on monopoly power and
5 information asymmetries to exploit both their
6 employees and consumers.

7 Unbridled markets also injure our
8 democracy. Equity is the lifeblood of
9 democracy, which hinges on the egalitarian
10 principle of one person, one vote. Extreme
11 economic inequality translates into extreme
12 political inequality, turning our government
13 into an oligarchy. American billionaires,
14 acting through the tax code, have
15 dramatically undermined our democracy, and we
16 see the consequences every day in Washington.

17 With this framework in mind, cognizant
18 of the fact that budgets express our values,
19 and our values demand that billionaires pay
20 their fair share, I'll now outline my
21 submitted testimony.

22 Taxing the rich isn't easy, and we
23 propose a three-prong strategy: Meaningful
24 new or increased taxes on wealth, ultra-high

1 incomes, and big corporations.

2 With this framework in mind, first we
3 strongly support wealth taxation, as has been
4 popularized by Senators Bernie Sanders and
5 Elizabeth Warren. We also propose raising
6 taxes on wealth by reforming our estate and
7 gift taxes, and through property tax reform
8 such as raising taxes on pied-à-terres,
9 luxury land, and yachts and jets. We also
10 call for eliminating Sections 421-a, 485-a,
11 and 581, which provide wealthy property
12 owners with immense and unconscionable
13 subsidies.

14 Second, we believe that we can follow
15 the lead of New Jersey and California in
16 raising income taxes on ultra-millionaires,
17 but we also recognize that most of the income
18 enjoyed by the wealthy comes from
19 investments. These receive huge tax benefits
20 under federal law. Long-term capital gains
21 are taxed at half the normal rate, and that's
22 why we propose a surcharge on long-term
23 capital gains to offset federal tax
24 subsidies.

1 Third, we are committed to raising
2 taxes on the corporate sector. In 2015,
3 New York reformed its corporate tax to lower
4 overall rates and eliminate the special tax
5 on banks. It's time to reverse this trend,
6 and we support a progressive reform of rates
7 for the general business corporation tax.

8 We're especially concerned with the
9 destabilizing effects of speculation and
10 greed in the financial sector. We support
11 restoring New York's stock transfer tax
12 imposed from 1905 to 1981 and rebated at a
13 100 percent rate ever since. And we support
14 expanding the tax to derivatives, synthetic
15 debt obligations, and other securities.

16 In summary, taxing the rich is
17 actually pretty simple. You're taking a big
18 chunk of money and moving it from investments
19 made by the most wealthy to those made by
20 democracy. And we can't talk about tax
21 reform without talking about these democratic
22 investments.

23 Our proposals are rooted in a
24 conviction that investing in teachers and

1 medical professionals, social workers,
2 construction workers, and displaced workers
3 transitioning to a new economy, is more
4 economically productive than leaving capital
5 locked up in investments made by and for the
6 wealthy.

7 The market is failing as a valuation
8 mechanism. We can't save our planet or our
9 democracy without significant investments in
10 healthcare, education, housing and a Green
11 New Deal. As one of the wealthiest states in
12 America, New York has the financial resources
13 to fund these needs. The tax dollars are
14 available, we just need to know where to
15 look.

16 In this 2020 budget cycle, we must
17 reject austerity and begin to create a budget
18 and tax system that reflects our values of a
19 just society for all.

20 Finally, I know it's been a long day,
21 but I love Senator Benjamin's question about
22 what is fairness in tax -- and if you'll
23 indulge me, I'd love a chance to respond.

24 CHAIRWOMAN WEINSTEIN: You'll be able

1 to do that at some later time. Just stick
2 around, you'll be able to have that
3 conversation.

4 So this is the end of all of the
5 witnesses for the Tax Hearing. And before we
6 officially conclude this hearing, I just, on
7 behalf of Senator Liz Krueger and myself,
8 want to take a moment to thank all of our
9 staffs who have worked for these several
10 weeks till last night at almost midnight, and
11 on the weekends, to make sure that these
12 hearings ran as smoothly as they have.
13 They're sort of the silent people behind
14 the -- they're the people behind the scenes,
15 but they get a lot of credit for this.

16 Senator Krueger, did you want to --
17 (Applause from audience.)

18 CHAIRWOMAN KRUEGER: Helene said it
19 exactly correctly. This applies to both of
20 our staffs. Thank you.

21 CHAIRWOMAN WEINSTEIN: So thank you.
22 This concludes the Tax Hearing. It also
23 concludes the joint fiscal committees'
24 hearings on the Executive Budget.

1 We look forward -- we've appreciated
2 all of the comments that we've received, as
3 well as testimonies from individuals, and
4 look forward to negotiations as we move
5 forward, taking into consideration all of the
6 comments that we've heard, not only today but
7 all of the other days that we've had these
8 hearings.

9 Thank you very much.

10 (Whereupon, the budget hearing concluded
11 at 5:49 p.m.)

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