

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
2021-2022 EXECUTIVE BUDGET
5 ON TAXES

6 -----

7 Virtual Hearing
Conducted via Zoom

8 February 23, 2021
9 3:20 p.m.

10
PRESIDING:

11 Senator Liz Krueger
12 Chair, Senate Finance Committee

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

PRESENT:

15 Senator Thomas F. O'Mara
16 Senate Finance Committee (RM)

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

19 Assemblywoman Sandy Galef
Chair, Committee on Real Property Taxation

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

21 Senator Diane J. Savino

22 Assemblyman Brian D. Miller

23 Assemblyman Edward C. Braunstein
24

1 2021-2022 Executive Budget
Taxes
2 2-23-21

3 PRESENT: (Continued)

4 Senator Julia Salazar

5 Assemblyman Harry B. Bronson

6 Senator John C. Liu

7 Assemblyman Chris Tague

8 Senator Gustavo Rivera

9 Assemblyman Zohran K. Mamdani

10 Senator Alexis Weik

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14 LIST OF SPEAKERS

15 STATEMENT QUESTIONS

16 Michael R. Schmidt
Commissioner
17 NYS Department of Taxation
and Finance

11

16

18 Dr. Jonas Shaende
19 Chief Economist
Fiscal Policy Institute
20 -and-

Michael Kink, Esq.
21 Executive Director
Strong Economy for All
22 Coalition

85

91

23

24

1 2021-2022 Executive Budget
 Taxes
 2 2-23-21

3 LIST OF SPEAKERS, Cont.

4 STATEMENT QUESTIONS

5	Ken Pokalsky		
	Vice President		
6	The Business Council of		
	New York State		
7	-and-		
	Edmund J. McMahon		
8	Senior Fellow		
	Empire Center for Public Policy	103	111
9			
	Allan Gandelman		
10	President		
	New York Cannabis Growers and		
11	Processors Association		
	-and-		
12	Ngiste Abebe		
	President		
13	New York Medical Cannabis		
	Industry Association		
14	-and-		
	Kevin A. Sabet, Ph.D.		
15	President		
	SAM Action	145	156
16			
	Joseph D. Battaglia, CPA		
17	Secretary/Treasurer		
	Saratoga Harness Horseperson's		
18	Association		
	-and-		
19	Rich Maroko		
	President		
20	New York Hotel and Motel Trades		
	Council, AFL-CIO	185	193

21

22

23

24

1 2021-2022 Executive Budget
 Taxes
 2 2-23-21

3 LIST OF SPEAKERS, Cont.

4 STATEMENT QUESTIONS

5	Anne Reynolds		
	Executive Director		
6	Alliance for Clean Energy		
	New York		
7	-and-		
	Scott Shedler		
8	Legislative Liaison		
	NYS Assessors Association		
9	-and-		
	Carolyn W. Price		
10	Supervisor, Town of Windsor		
	President		
11	Upstate New York Towns		
	Association	198	211
12			
	Joel Berg		
13	President		
	Hunger Free America		
14	-and-		
	Boris Santos		
15	Policy Analyst and Organizer		
	DSA Debt and Finance Working Group		
16	-and-		
	David Siffert		
17	Executive Committee Member		
	Village Independent Democrats		
18	-and-		
	Asha Avery		
19	Organizer		
	Youth Alliance for Housing		
20	-and-		
	James S. Henry, Esq.		
21	Senior Advisor		
	Tax Justice Network	217	236
22			
	John Crepps		
23	Director of Global Sales Tax		
	Element Fleet Management	241	
24			

1 ASSEMBLYMAN CAHILL: Good afternoon.

2 My name is Kevin Cahill, I'm an Assemblyman
3 filling in for the chair of our Ways and
4 Means Committee, Helene Weinstein, who has
5 other obligations in the Capitol at this
6 point, and I am serving as one of the
7 temporary cochairs of this hearing, along
8 with my good friend Senator Liz Krueger,
9 chairperson of the Finance Committee in the
10 Senate.

11 Today we begin the 12th in a series of
12 hearings conducted by the joint fiscal
13 committees of the Legislature regarding the
14 Governor's proposed budget for the fiscal
15 year 2021-2022. The hearings are conducted
16 pursuant to the New York State Constitution
17 and the Legislative Law.

18 Today the Assembly Ways and Means
19 committee and the Senate Finance Committee
20 will hear testimony concerning the Governor's
21 budget proposal for Taxes.

22 I will now introduce members of the
23 Assembly who are present for this hearing,
24 and then after that Senator Krueger will

1 introduce members of the Finance Committee
2 and other committee members.

3 For the Assembly, on the majority side
4 we have Assemblywoman Sandy Galef, who chairs
5 our Real Property Tax Committee, and Ways and
6 Means Committee Members Ed Braunstein and
7 Harry Bronson.

8 Senator, would you like to introduce
9 your members?

10 CHAIRWOMAN KRUEGER: Thank you very
11 much, Kevin.

12 I am joined today by my colleague
13 Senator John Liu; the chair of the Budget and
14 Revenue Committee, Senator Brian Benjamin;
15 Senator Julia Salazar; Senator Diane Savino;
16 and our ranker for Finance, Tom O'Mara.

17 And Tom, I don't think you have other
18 members here yet, right?

19 SENATOR O'MARA: No, just me for now.
20 But we're recirculating that new link, so
21 that's probably slowing some people down,
22 so --

23 CHAIRWOMAN KRUEGER: As people join,
24 we will make sure to announce them. No

1 problem.

2 SENATOR O'MARA: Sure. Thank you.

3 ASSEMBLYMAN CAHILL: I'd like to turn
4 it over to Assemblyman Ed Ra, the ranker on
5 the Ways and Means Committee, so he can
6 introduce his army of members who are present
7 for the hearing.

8 ASSEMBLYMAN RA: Thank you,
9 Mr. Temporary Cochair. Thank you for your
10 leadership of this hearing.

11 I want to just recognize Assemblyman
12 Brian Miller, who is our ranking member on
13 the Real Property Tax Committee, who is
14 joining us.

15 ASSEMBLYMAN CAHILL: Terrific. If
16 there are any members who were not announced,
17 please let us know. I see Assemblyman Chris
18 Tague has shown up. Any other members
19 present?

20 Seeing none, before I introduce the
21 first witness I'd like to remind all of the
22 witnesses testifying today to keep your
23 statements within the allotted time so that
24 everyone can be afforded the opportunity to

1 speak. This is especially important now that
2 these hearings are being conducted virtually.

3 All governmental entities will get
4 10 minutes to make oral presentations, so
5 we'll start the proceedings today with a
6 presentation from Commissioner Schmidt from
7 the Department of Taxation and Finance.

8 After the governmental witnesses,
9 we'll proceed to hear testimony from the
10 other witnesses, nongovernmental witnesses
11 who asked to testify here today. These
12 witnesses will each have three minutes to
13 make oral presentations to us.

14 Witnesses are reminded that their
15 testimony which has been submitted in writing
16 prior to the hearing will be made part of the
17 record of the hearing. Therefore, please
18 don't read your testimony verbatim. Instead,
19 experience has demonstrated that a concise
20 summary of the highlights of the testimony
21 will allow for more effective advocacy and
22 will also allow for members' questions to be
23 more focused and productive.

24 All witnesses are also reminded that

1 their remarks should be limited to the time
2 remaining on the countdown clock in the Zoom
3 window. Please find that clock right now and
4 keep an eye on it. It's very important that
5 testimony be within the proscribed time
6 limits in order to afford all of the many
7 witnesses seeking to join us today time to
8 testify, so that they have an appropriate
9 opportunity.

10 We don't want to have to shut down
11 anyone's Zoom screen if they exceed their
12 time limit, but we will do so if necessary to
13 keep the hearing moving and on track, given
14 the large number of people seeking to
15 testify.

16 Likewise, members' questions will be
17 limited by the countdown clock. Time limits
18 for members of the Legislature are as
19 follows: The chairs of the committees
20 relevant to this hearing will get 10 minutes
21 each to ask questions and receive answers.
22 The ranking members of these committees will
23 get five minutes each. And all other members
24 of the relevant committees will get three

1 minutes each.

2 There will be no second rounds of
3 questions for the members except for the
4 relevant committee chairs.

5 I want to emphasize that members
6 should please note that these time frames for
7 questions include both questions and answers.
8 So members are respectfully requested not to
9 commence a new question with insufficient
10 time on the clock within which the witness
11 may answer.

12 We thank everybody in advance for
13 adhering to these important guidelines that
14 are designed to ensure that all committee
15 members have the opportunity to ask questions
16 and to allow for a productive and informative
17 hearing.

18 Members should use the raised-hand
19 function to indicate that they would like to
20 ask a question, and use the chat box if any
21 procedural-type questions are to be directed
22 to either of the chairs.

23 So with that, I will now call our
24 first witness, the Honorable Commissioner

1 Michael Reed Schmidt from the Department of
2 Taxation and Finance.

3 Welcome, Commissioner Schmidt.

4 COMMISSIONER SCHMIDT: Thank you.

5 And good afternoon, Chair Krueger,
6 Temporary Cochair Cahill, and members of the
7 fiscal committees. Thank you for inviting me
8 today to testify on behalf of the Department
9 of Taxation and Finance.

10 I will briefly discuss the
11 department's operations through the pandemic
12 before making a few comments regarding
13 Governor Cuomo's Executive Budget.

14 I know a lot of commissioners are
15 probably saying this this year, but I truly
16 could not be more proud of the performance of
17 this department during what's been an
18 extraordinarily challenging year. In spite
19 of the pandemic, we fulfilled our core
20 mission without significant disruption, and
21 we took extraordinary steps to support the
22 state's broader public health response, all
23 while continuing to push forward our
24 long-term agenda to help New York's

1 taxpayers.

2 So I'll start with our core processing
3 and taxpayer services operations as a
4 department. While the IRS halted operations
5 for a large part of the year, at no point did
6 we stop opening mail, processing returns,
7 issuing refunds or cashing checks. In 2020
8 we processed 26 million returns, collected
9 \$120 billion in revenue, and issued 10
10 million refunds without significant delay.
11 We extended the personal income tax filing
12 deadline from April to July, we abated
13 interest and penalty for sales tax filers
14 impacted by the pandemic, and we worked with
15 our partners in the assessment community to
16 address a range of property tax
17 administration issues.

18 Even as we fulfilled these core
19 responsibilities, we assisted our sister
20 agencies with theirs. As many of you know,
21 the department runs the Consolidated Contact
22 Center for New York State, which this year
23 set a record by handling 5 million phone
24 calls, including more than 2 million calls

1 related to COVID, in partnership with the
2 Department of Health.

3 This has been a massive 24/7
4 interagency effort, and I want to recognize
5 the hard work of the staff in the contact
6 center, across the department, and indeed
7 across the state for their tireless work on
8 behalf of New Yorkers.

9 Beyond our efforts to maintain our
10 revenue-generating functions and support the
11 public health response, we continued to push
12 forward with key programmatic initiatives to
13 improve the taxpayer experience. We are
14 overhauling our correspondence program, which
15 is producing significant improvements to the
16 taxpayer experience as we speak. We continue
17 to work on the replacement of legacy
18 processing systems. We launched a marketing
19 campaign to expand participation in our
20 Free File program, which produced a
21 57 percent increase in participation,
22 generating more than 100,000 new Free Filers,
23 and saving New Yorkers more than \$50,000 in
24 tax preparation fees.

1 We undertook a public awareness
2 campaign to encourage low-income New Yorkers
3 to claim federal stimulus payments that
4 weren't sent out automatically. The campaign
5 helped reduce the number of unclaimed
6 payments in New York by more than 200,000,
7 bringing an additional \$340 million into the
8 state to help people meet basic needs during
9 the pandemic.

10 We enhanced the financial education
11 resources we provide on our website, and, in
12 a special project that we believe to be the
13 first of its kind for a tax agency in the
14 nation, we are examining our operations
15 through the lens of structural inequity,
16 scrutinizing our policies, procedures and
17 systems to ensure that they are promoting a
18 more equitable society.

19 I know that the year ahead will be
20 challenging, but I am hopeful for continued
21 progress at the department.

22 So let me shift gears now and very
23 briefly highlight different aspects of the
24 Executive Budget that I believe merit careful

1 consideration by the Legislature, from
2 addressing our fiscal and revenue issues, to
3 supporting our economic recovery, to
4 advancing programs that help working
5 families, this budget is a strong first step
6 in our state's efforts to build back better.

7 Accordingly, the budget proposes to
8 establish three new tax credits totaling
9 \$130 million to help small businesses,
10 restaurants and theatrical production
11 companies to recover from the pandemic and
12 bring jobs back to New York.

13 Also, as access to affordable
14 childcare remains a key priority, the budget
15 provides meaningful new incentives for
16 employers to help provide much-needed
17 childcare to employees.

18 And finally, in an area that is very
19 important to me and I know is very important
20 for many of you, the area of consumer
21 protection, the Executive Budget includes
22 important provisions to enhance oversight of
23 unscrupulous tax preparers, giving the
24 department new and stronger tools to protect

1 taxpayers from abuse in this area.

2 So thank you again for inviting me to
3 testify here today, and I'll be pleased to
4 take your questions.

5 CHAIRWOMAN WEINSTEIN: Assemblywoman
6 Galef, do you have questions?

7 ASSEMBLYWOMAN GALEF: I sure do. Yes,
8 thank you.

9 CHAIRWOMAN WEINSTEIN: Okay, please go
10 ahead. Ten minutes.

11 ASSEMBLYWOMAN GALEF: Welcome,
12 Commissioner. It's nicer to see you in one
13 of the hearing rooms, but it is as it is.

14 I'd like to just -- you have a couple
15 of new programs that are being recommended
16 that affect real property, and one is the
17 Enhanced STAR program. And as we all know,
18 that seniors have always been able to get an
19 exemption from their property tax, and now
20 you're recommending a credit check. And I
21 just wondered, why in the world are we doing
22 this? What are the advantages to the state,
23 what are the advantages to seniors? If you
24 could explain that to me.

1 COMMISSIONER SCHMIDT: Absolutely.

2 Thank you for that question.

3 Just a little bit of background, to be
4 clear. Seniors who are currently enrolled in
5 the Enhanced STAR program as an exemption
6 would not be affected by this proposal. So
7 this doesn't -- this proposal wouldn't affect
8 any existing Enhanced STAR exemptions.

9 What it says is that when basic STAR
10 beneficiaries become eligible for Enhanced
11 STAR -- usually because they age into it,
12 right, they turn 65 -- those new entrants
13 into the Enhanced STAR program would be
14 enrolled in Enhanced STAR through the credit.

15 And I think this, you know, is part of
16 a longer trend in the department taking a
17 more active role in administration of the
18 STAR program. You know, STAR overall is a \$3
19 billion state program historically --

20 ASSEMBLYWOMAN GALEF: Can I stop you
21 right there? I think what you're trying to
22 do -- every year we have something before us
23 that changes the program. We also have
24 mobile homes this year too. And so with the

1 people, the public, you know, it keeps
2 changing. And with our -- and we're going to
3 have testimony from our assessors later, and
4 for them to deal with all the changes -- what
5 is the -- what is the value to the senior to
6 have to wait to get a check as opposed to
7 just not paying as much in the school tax? I
8 don't understand it.

9 COMMISSIONER SCHMIDT: Well, as you
10 know, by law right now the exemption program
11 remains flat. The check program can increase
12 by up to 2 percent every year. We're seeing
13 that in 77 percent of school districts, those
14 increases are happening, right? So that is a
15 benefit over time --

16 ASSEMBLYWOMAN GALEF: Are you saying
17 to the public that 77 percent of the public
18 that are in Enhanced STAR -- well, in STAR
19 that are getting a credit check are getting
20 an increase from what they would have gotten
21 if they didn't go into the program?

22 COMMISSIONER SCHMIDT: I'm saying in
23 77 percent of school districts, yes.

24 ASSEMBLYWOMAN GALEF: Seventy-seven --

1 but that doesn't mean the person is getting
2 more money.

3 COMMISSIONER SCHMIDT: Well, it means
4 that for every -- every individual in those
5 school districts, the credit recipients --
6 the value of that credit is going up.
7 Whereas the value of the exemption is
8 remaining flat for all those other people --

9 ASSEMBLYWOMAN GALEF: I'd like
10 statistics on that if you can get that to me
11 later, because what I've been hearing from
12 constituents is they get into the program,
13 it's like a bait-and-switch, and then they
14 really aren't getting more money.

15 COMMISSIONER SCHMIDT: I'll be happy
16 to provide you with those statistics.

17 ASSEMBLYWOMAN GALEF: Okay. I just
18 don't know what -- I don't think you've
19 explained the advantage to the senior having
20 to go this direction.

21 But can I ask you about late checks?
22 Have -- within the STAR program as it exists
23 today, does everybody get their check before
24 their property taxes are due? And I'm not

1 talking about the day before they're due.

2 COMMISSIONER SCHMIDT: Yes, the vast
3 majority of taxpayers are getting their
4 checks before the property taxes are due.
5 This year it was 97 percent of taxpayers.

6 I think there were challenges with
7 some of the early implementation at the
8 department of the program, some of that
9 initial transition. I think right now, from
10 my perspective, it's working very well, very
11 effectively. And I think that's a testament
12 to the good work of the team here.

13 ASSEMBLYWOMAN GALEF: Okay. We hope
14 that continues.

15 Let's go to mobile homes. The
16 recommendation is to transfer the mobile home
17 owners to get a credit check versus getting a
18 deduction from their maintenance -- or their
19 rent on their property.

20 Why are we doing that? Is there a
21 rationale behind that?

22 COMMISSIONER SCHMIDT: So this is a
23 proposal that I think will almost certainly
24 accrue to the benefit of many mobile home

1 owners.

2 Right now the STAR benefit goes as an
3 exemption to the owner of the park, right,
4 and then it flows through to those mobile
5 home owners. That owner is entitled to take
6 a 2 percent fee from that.

7 And in addition, there's a small but
8 important technical difference between the
9 credit program and the exemption program.
10 But in the credit program, there's a \$20,000
11 floor to valuation under the STAR program.
12 So mobile homes that are below that \$20,000
13 floor, they'll actually receive a greater
14 benefit as a result of this.

15 And I will say from our perspective as
16 the department, it allows us to provide that
17 benefit directly to the mobile home owner, to
18 the person we want to make sure has the
19 benefit, as opposed to relying on an
20 intermediary.

21 ASSEMBLYWOMAN GALEF: Okay, then we'll
22 have -- but how is the mobile home owner
23 going to know about this program? How are we
24 going to advertise it? Are you going to send

1 something out to each one of them?

2 COMMISSIONER SCHMIDT: Yes. So with
3 these programs we -- generally we try to
4 automatically enroll new enrollees in the
5 program if there's a provision of law that
6 enrolls them.

7 I'd have to look at the details as to
8 whether we have the data. I think -- I think
9 as the result of some new data reporting
10 we've put in place this year we'll be able to
11 do that. But at a minimum we'll be able to
12 send letters directly to all those mobile
13 home owners to make sure that they get in and
14 get registered. I'd be very, very committed
15 to making sure that we do that.

16 ASSEMBLYWOMAN GALEF: Right.

17 Do we have any idea what the average
18 STAR exemption is on mobile homes?

19 COMMISSIONER SCHMIDT: The average
20 STAR exemption statewide is around \$700. I'd
21 have to get you a number specific to mobile
22 homes. I'm not sure if we have that.

23 ASSEMBLYWOMAN GALEF: Okay. That's
24 for residential homes, I guess, the 700?

1 COMMISSIONER SCHMIDT: Right.

2 ASSEMBLYWOMAN GALEF: Okay. Could I
3 ask about the renewable energy project
4 portion of it? Because you're asking it to
5 be extended from the development of renewable
6 energy projects from 2025 to 2030.

7 And as a part of the 30-day
8 amendments, there is a recommendation to
9 eliminate the use of an income capitalization
10 model when determining the assessed value for
11 these energy projects. What standard
12 assessment approach do you intend to
13 establish?

14 COMMISSIONER SCHMIDT: So as you know,
15 this is a proposal which is mainly aimed at
16 providing a consistency in administration and
17 valuation methodologies with respect to
18 renewable energy properties in New York
19 State.

20 The methodology we would come up with
21 is something that we would want to work with
22 our partners in the assessment community,
23 with local governments, to make sure that we
24 come up with a methodology, take in

1 stakeholder input, and have a methodology
2 that everyone feels comfortable with.

3 So the purpose is to provide that
4 certainty across the board for these projects
5 across the state. The means is something
6 that we want to work with stakeholders on.

7 ASSEMBLYWOMAN GALEF: Okay. So you're
8 going to reach out to the local assessors on
9 that one.

10 COMMISSIONER SCHMIDT: Absolutely.

11 Since you bring up the local
12 assessors, I would be remiss if I didn't just
13 say that they did a fantastic job this year.
14 This was a tough year to be a local property
15 tax assessor. And we worked closely with
16 them to help address challenges, and I just
17 want to say that I really appreciate their
18 work --

19 ASSEMBLYWOMAN GALEF: I hope they're
20 listening, because they're going to be on
21 later on.

22 So with the STAR exemption appeal
23 process -- going back to STAR a bit -- you
24 are recommending an independent review of the

1 appeals or determinations; you're going to
2 have the department do that instead.

3 It would seem to me it's better to
4 have somebody that is more independent doing
5 this than you all. Can you tell me the
6 rationale for why you're recommending that?

7 COMMISSIONER SCHMIDT: Well, our goal
8 is to provide taxpayers with a faster answer,
9 to resolve issues more quickly.

10 The Real Property Tax Board meets on a
11 periodic basis throughout the year, so we
12 have to -- when we get -- when we get
13 protests and petitions relating to the STAR
14 program, we have to aggregate those, the
15 taxpayer has to actually wait until we have a
16 board meeting, we've got to make sure we have
17 a quorum at the board meeting, which is not
18 always the case, and then we have to review
19 those.

20 This -- this, you know, the process
21 envisioned in the budget really aligns the
22 process with a lot of administrative appeals
23 you see throughout the state. We have
24 processes within the agency, most notably

1 with our Bureau of Conciliation and Mediation
2 Services that deals with these types of
3 taxpayer protests. And so I feel confident
4 that we'll be able to make this transition in
5 a way that is definitely to the benefit of
6 taxpayers.

7 ASSEMBLYWOMAN GALEF: Okay, I'll try
8 to come back with more questions. Sorry, it
9 goes so fast. And I'm sorry to cut you off,
10 but it just --

11 (Overtalk.)

12 COMMISSIONER SCHMIDT: No, I
13 appreciate it. It's important to address all
14 the issues.

15 ASSEMBLYWOMAN GALEF: Thanks.

16 CHAIRWOMAN WEINSTEIN: We go to the
17 Senate now.

18 CHAIRWOMAN KRUEGER: Thank you.

19 And our chair of Budget and Revenue,
20 Brian Benjamin.

21 SENATOR BENJAMIN: Thank you so much,
22 Chair Krueger. And thank you so much,
23 Commissioner Schmidt, for being here.

24 As the chair of Budget and Revenue,

1 Commissioner, I'm sure you're not going to be
2 surprised that I want to start with the
3 personal income tax surcharge that is first
4 on the list here.

5 My first question for you is, why
6 start at the \$5 million number? You know,
7 there are a number of people who believe
8 that, you know, at least a million dollars is
9 probably a place that you should look at when
10 you're talking about generating sort of the
11 revenue that's needed to really help the
12 state.

13 Can you talk a little bit about why
14 the surcharge starts at 5 million?

15 COMMISSIONER SCHMIDT: So the personal
16 income tax surcharge in the Executive Budget
17 is designed to address the budget challenges
18 facing the state as a result of COVID. As
19 you know, COVID had a dramatic impact on the
20 state's fiscal circumstances -- a four-year
21 revenue decline currently projected at \$33
22 billion, less than what we had expected it to
23 be.

24 So, you know, as a result of that the

1 Executive put forward a set of proposals
2 aimed at addressing that, absent what we all
3 expect and hope, which is that \$15 billion,
4 that meaningful federal aid to help us fill
5 that gap.

6 You know, with respect to the
7 high-income surcharge, a number of
8 considerations have to go into the design of
9 that. One is of course that the purpose of
10 it is to raise revenue, in light of the
11 state's fiscal challenges. But of course
12 there are drawbacks too with respect to the
13 impact on the state's competitiveness with
14 respect to the risk of taxpayer migration.
15 We are in a totally new world now with
16 respect to the loss of SALT deductibility.
17 And then you layer on top of that the impact
18 of the pandemic, there's a lot of uncertainty
19 and a lot of reason for caution.

20 So the proposal was designed with
21 those various considerations in mind, and in
22 that context the Executive chose a \$5 million
23 threshold as his starting point.

24 SENATOR BENJAMIN: I'm glad you

1 brought up the issue of taxpayer migration,
2 because no one's better to give us a sense of
3 where that is right now. Can you talk a
4 little bit about how -- you know, how
5 migration has or hasn't occurred since the
6 start of the pandemic? And, you know, where
7 we've seen most losses when it comes to that
8 issue?

9 COMMISSIONER SCHMIDT: Thank you,
10 Senator. It is such an important question.
11 And unfortunately it is not a question that
12 we right now as a tax agency have a lot of
13 information on which to base an answer right
14 now. And the reason for that is that 2020
15 taxes -- the season for filing 2020 taxes is
16 just starting. We'll see a bunch of filings
17 by the April 15th deadline and then after
18 that, with respect to high-income taxpayers,
19 a lot of them file by the October deadline.

20 So it really won't be until October
21 that I think we have a complete picture of
22 that one-year impact, and even then I would
23 expect that it's an impact that we want to
24 monitor over time. But there's no question

1 it's something that we need to -- we need to
2 be watching very closely.

3 SENATOR BENJAMIN: Sure. Because one
4 of the things that I can tell you we hear all
5 the time is people -- some say people are
6 leaving, some say people aren't leaving.
7 And, you know, it would be helpful for us to
8 have the data to really know what we're
9 dealing with so we can make decisions
10 grounded in fact, not grounded in opinions.

11 So I definitely look forward -- and
12 quite frankly, as you're getting returns, I
13 mean I'm sure you typically can say, you
14 know, January, February, March, you have a
15 sense of -- based on historically how things
16 are trending. I think some of that
17 information can help us as we're trying to
18 think about what's really going on.

19 So let's talk about the prepayment
20 option for a second. One of the things that
21 your proposal -- that the Governor's proposal
22 says is you will have a surcharge for three
23 years and then there will be a tax deduction
24 years going forward for 10 years, right? Can

1 you talk about why you thought it was
2 necessary to have the deduction piece of it?

3 And, you know, do you have some reason
4 to believe that we'll have the revenues in
5 the future, that this wouldn't cause us
6 another problem? Because now we have this
7 deduction we have to pay for over 10 years
8 while we're still trying to recover from and
9 deal with the COVID crisis.

10 COMMISSIONER SCHMIDT: Sure thing.

11 So the proposal, as you described, is
12 a three-year surcharge on the personal income
13 tax starting with taxpayers who make more
14 than \$5 million. And there is, as you
15 describe, a prepayment option whereby a
16 taxpayer could pay in advance their taxes for
17 2022-2023 with their 2021 taxes, and then
18 benefit thereafter from -- with a deduction
19 that would, in essence, offset that
20 liability.

21 I think the thinking behind that is a
22 recognition, first and foremost, that the
23 most acute fiscal crisis is something we're
24 seeing now in the state. I think we all, you

1 know, hope and expect that we'll have
2 economic growth coming out of the pandemic.
3 Obviously the shape of that recovery is
4 something that it's very hard to have a
5 crystal ball into.

6 But we do know that we have
7 shorter-term fiscal challenges, and so the
8 prepayment option provides an incentive to
9 make sure that we're getting that revenue in
10 sooner rather than later.

11 SENATOR BENJAMIN: Understood. There
12 are some concerns with the deduction, but I
13 want to move on.

14 The delaying of the middle-class tax
15 cut. You know, one of the things that it's
16 hard to reconcile is why, for the revenue
17 that we believe we'd get from delaying a
18 middle-class tax cut -- by the way, middle
19 class, unless my numbers are wrong, goes down
20 anywhere from 20,000 up to 270,000. So, you
21 know, middle class I think is -- anyway,
22 let's not talk about that.

23 But my question for you is why
24 wouldn't we have just increased the income

1 surcharge, as opposed to delaying these
2 middle-class tax cuts to deal with that
3 revenue that we expect to save from delaying
4 middle-class tax cuts in the middle of a
5 pandemic? It just -- it seems, you know,
6 with all the concerns about income inequality
7 and just what's going on in the world, that
8 we would -- particularly when you start at
9 5 million, I think most people would assume
10 that those at the 5 million and above level
11 can handle sort of extra surcharges over
12 those who are at the lower incomes of scale,
13 particularly in the middle of a pandemic.

14 Can you explain the rationale behind
15 delaying the middle-class tax cut proposal at
16 this time?

17 COMMISSIONER SCHMIDT: Well, I'll
18 start by going back to a point I made
19 earlier, which is it all starts with what we
20 get out of the federal government. And so
21 the budget is structured in such a way that,
22 you know, it's first and foremost dependent
23 on what that number is in terms of federal
24 support. And the Governor has made clear his

1 expectation that the state will receive
2 \$15 billion in support, which would obviate
3 the need for, you know, these kind of tough
4 choices.

5 Now, absent that, though, tough
6 choices do have to be made. And there is a
7 high-income surcharge which will result in
8 significant -- \$1.5 billion in additional
9 burden on our highest-income residents, and a
10 one-year delay of the middle-class tax cuts.
11 Now, the middle-class tax cuts will still
12 phase in. Again, it's kind of recognizing
13 the acute nature of this crisis in the
14 short-term in particular. But I think, you
15 know, the Executive is aligned in saying
16 that, you know, we all hope that that's not
17 necessary because the federal support will be
18 there.

19 SENATOR BENJAMIN: Well, I just want
20 to say on the record that even if the federal
21 support isn't there, I strongly object to the
22 idea that we should be delaying middle-class
23 tax cuts, particularly for those in the
24 20,000, 30,000, 40,000, 50,000 income level

1 in the middle of a pandemic. I think that's
2 a real problematic proposal, regardless of
3 what we get. I hope we get the 15 billion,
4 let's be clear, but I don't think we should
5 be looking at that.

6 But let me move on, because I see my
7 time is running. The last question I want to
8 ask you about is the extension of the
9 hire-a-vet business tax credit. You know,
10 one of the things that we've been talking
11 about in my committee is the concern around
12 tax credits that are not being fully utilized
13 even though we're looking to extend them.

14 Can you talk a little bit about any
15 challenges that you're finding as relates to
16 awareness around this credit and what can we
17 do to make sure that people use this credit?
18 I'm all for the credit, but if we're going to
19 have these credits and they're not being
20 utilized effectively, I think we need to
21 rethink, from an oversight perspective,
22 what's going wrong and what we need to
23 change. Can you talk a little bit about
24 that?

1 COMMISSIONER SCHMIDT: Just to say
2 that I would agree with you that it's a
3 problem that we see across the board where
4 there are meaningful incentives that we
5 provide to the tax code, particularly around
6 hiring populations that we want to support,
7 and we need to do what we can to raise
8 awareness in the business community that
9 those incentives are there.

10 You know, certainly the Tax Department
11 would be happy to work with you on those
12 efforts, as well as, you know, our sister
13 agencies --

14 SENATOR BENJAMIN: Real quick before
15 my time runs out. Do you believe this tax
16 credit has been successful? Leaving aside
17 the issue that I'm concerned about, has it
18 been successful? And if it's been
19 successful, you would imagine that more
20 people would want to utilize it. Can you
21 just help us understand that?

22 COMMISSIONER SCHMIDT: Yeah, I think
23 for those employers that have chosen to use
24 the credit, it has provided an important

1 benefit that supports their hiring. So in
2 those instances it's successful, in my view.
3 The question is how can we repeat that
4 success in more instances.

5 SENATOR BENJAMIN: Thank you, Madam
6 Chair Krueger.

7 COMMISSIONER SCHMIDT: Thank you,
8 Senator.

9 SENATOR BENJAMIN: Thank you,
10 Commissioner.

11 CHAIRWOMAN WEINSTEIN: So we will go
12 to Assemblyman Ra, the ranker, for five
13 minutes.

14 ASSEMBLYMAN RA: Thank you.

15 Commissioner, good afternoon. I
16 wanted to get into the question of our
17 state's convenience provision and, you know,
18 with the fact that so many people are working
19 remotely and that there is a pending Supreme
20 Court case stemming from a challenge that
21 New Hampshire has filed against
22 Massachusetts.

23 Just if you have any information from
24 within the department in terms of, you know,

how large the scope of the impact of this is.

Are you concerned that if that case were to go in favor of New Hampshire that it could jeopardize our laws with regard to those taxpayers? And how big is -- you know, financially -- is the potential impact on our tax receipts?

COMMISSIONER SCHMIDT: So no question there's been a lot of interest in the telecommuting issue as a result of the pandemic and the related shifts in work patterns.

Fortunately the state has long had a set of rules in place to address just this very question, just this very question of how do we tax remote work. You referenced the convenience rule, and since 2006 the state has had guidance that effectuates that rule, that implements that rule, that lays out a set of criteria that employers and employees have to meet. And depending on those criteria, that will affect the tax treatment of those earnings.

So those are rules we've had in place

1 for a long time. Those are rules that have
2 held up in court for a long time, and we're
3 going to continue to implement those rules.
4 You know, we're not changing anything on
5 those -- on that front. So in that sense I
6 feel confident in our current policy.

7 ASSEMBLYMAN RA: Okay, thank you for
8 that.

9 The other question I wanted to ask you
10 about -- so one of the panelists during our
11 hearing this morning that went into this
12 afternoon was mentioning regarding
13 START-UP NY and businesses that had employees
14 that were working remotely and were unable to
15 report to those sites, and that are now
16 being, you know, told that they owe personal
17 income taxes that they would not have
18 otherwise -- or businesses owing taxes that
19 they would not have otherwise owed.

20 I'm just wondering if you can clarify
21 that (a) from the department's standpoint,
22 but also whether it's something that could be
23 potentially addressed administratively or if
24 it's something that would require perhaps

1 language being inserted into the budget or in
2 a bill to allow for those individuals working
3 from home because of the pandemic to still
4 get what they expected to be the tax
5 benefits.

6 COMMISSIONER SCHMIDT: Thank you for
7 raising that issue. I think I understand the
8 issue as you describe it.

9 I'm not familiar with the details from
10 our perspective at the department, so if it's
11 all right, I'll look into it and I'd be happy
12 to get back to you quickly on that.

13 ASSEMBLYMAN RA: Certainly. And if
14 you'd like, I can kind of structure to you
15 exactly what was raised earlier in an email
16 or whatever, and that way you'd know exactly
17 what you're responding to. I'd appreciate
18 that.

19 COMMISSIONER SCHMIDT: That sounds
20 great.

21 ASSEMBLYMAN RA: Great, thank you,
22 Commissioner.

23 COMMISSIONER SCHMIDT: Thanks.

24 CHAIRWOMAN WEINSTEIN: So we're going

1 to go to the Senate, then.

2 CHAIRWOMAN KRUEGER: Thank you.

3 Yes, we're going to call on Senator
4 John Liu.

5 SENATOR LIU: Thank you very much,
6 Madam Chair.

7 Thank you very much, Commissioner, for
8 your testimony thus far.

9 I just wanted to ask a little bit
10 about the corporate taxes that -- you know,
11 the Governor has repeatedly said that we need
12 to be competitive with regard to New York
13 State's corporate taxes because we don't want
14 companies to leave the State of New York.
15 And I agree with that, but at the same time
16 we are now faced with huge deficits, as the
17 Governor repeatedly points out, and everybody
18 needs to share in the burden.

19 So my question to you would be, how do
20 corporations pay their corporate taxes to the
21 State of New York? For example, do
22 corporations that are headquartered outside
23 the State of New York, do they pay corporate
24 income taxes to the State of New York?

1 COMMISSIONER SCHMIDT: Yes. So the
2 corporate tax -- it'll depend on the tax
3 rate, right? So some businesses are
4 pass-through entities; they pay through the
5 personal income tax. There are a set of
6 rules for sourcing or allocating that income
7 to New York State as it relates to
8 pass-through entities.

9 And then there are actually a
10 different set of rules for C-corps or
11 corporations. And those rules were recently
12 revisited in the reform efforts that were
13 passed through the Legislature --

14 SENATOR LIU: So --

15 COMMISSIONER SCHMIDT: -- increased in
16 2015.

17 SENATOR LIU: So, Commissioner, my
18 understanding is that a simple way to look at
19 it is that a corporation would be subject to
20 New York State corporate taxes no matter
21 where they're located based on how much sales
22 revenue they get from the State of New York.

23 Is that roughly true?

24 COMMISSIONER SCHMIDT: My

1 understanding as a general matter -- and I
2 would want to, you know, look at the
3 specifics, and we can maybe have a follow-up
4 conversation -- is that part of that
5 2016 reform was a shift towards what's called
6 market-based sourcing, which is really based
7 on that sales factor.

8 How that sales factor gets calculated,
9 depending on the company, the industry, that
10 can end up being, you know, quite
11 complicated. But my understanding is that
12 that is a major driver of our corporate tax
13 base.

14 SENATOR LIU: Well, it seems, then,
15 that changing the corporate income tax
16 rate -- or raising it, because we need to
17 raise revenue at this time -- that that
18 wouldn't push companies out of New York
19 because no matter where they're based, they
20 would still be subject to New York State
21 corporate income tax. Is that correct?

22 COMMISSIONER SCHMIDT: Again, I would
23 have to look at the details. These can be --
24 this can be a complicated topic and it can

1 vary depending on industry.

2 But in principle I think what you're
3 articulating is accurate, which is that a
4 market-based -- that's one of the advantages
5 of a market-based allocation of --

6 SENATOR LIU: So it seems like there
7 is room for us to raise the New York State
8 corporate income tax without driving
9 companies out of New York.

10 Thank you so much, Commissioner.

11 Thank you, Madam Chair.

12 CHAIRWOMAN KRUEGER: Thank you,
13 Senator Liu.

14 Assembly?

15 CHAIRWOMAN WEINSTEIN: I just have
16 a -- I think one or two questions. I don't
17 see other Assemblymembers.

18 On the film tax credit, just
19 wondering -- you know, I see that there's the
20 one-year extension. But I was wondering if
21 you have information about how the pandemic
22 has impacted the film industry, and have
23 credit disbursements decreased as a result?
24 And then just the rationale for a one-year

1 extension.

2 COMMISSIONER SCHMIDT: I don't have
3 those details with me, Assemblymember
4 Weinstein -- good to see you. I'm happy to
5 go back and get that.

6 The program is administered in the
7 first instance by ESD, so we'll consult with
8 them in terms of figuring out what the
9 activity's been this year.

10 CHAIRWOMAN WEINSTEIN: Okay. And then
11 on the brownfields tax credit, do you know
12 why the deadline is being delayed for the
13 credit? You know, and perhaps -- I don't
14 think you would necessarily have it with you,
15 but would you be able to provide us with a
16 list of the entities that were unable to
17 complete their projects by the current
18 deadline?

19 COMMISSIONER SCHMIDT: So the
20 brownfield credit is awarded in a way whereby
21 the investments in kind of credit-eligible
22 expenses are eligible in a specified window,
23 based on when the project starts.

24 And what happened was that because of

1 COVID, that timeline totally got thrown up in
2 the air. So in many instances construction
3 halted, these projects halted, and so a
4 benefit that a project was banking on ended
5 up no longer being available.

6 So the purpose of this is just to kind
7 of recognize that, extend that window so that
8 there would be full eligibility for those
9 projects.

10 I can look to see what we have in
11 terms of projects that would have been
12 affected by this. What I can say, however,
13 is I'm not sure we'll have that data. The
14 brownfield credit is something that is
15 applied for after the fact, and so, you know,
16 companies complete projects and then they
17 file it with their returns, either corporate
18 returns or their personal income tax returns.
19 And so we would know kind of upon filing upon
20 completion.

21 CHAIRWOMAN WEINSTEIN: Okay. Great.
22 So look forward to some of that information.

23 I think that's it for me for now. I'm
24 going to turn it back to the Senate.

1 CHAIRWOMAN KRUEGER: Thank you.

2 I see Senator Tom O'Mara's hand up.

3 SENATOR O'MARA: Thank you,
4 Chairwoman Krueger, and Commissioner, for
5 being with us today.

6 What amount of savings is the
7 Governor's Executive Budget attributing to
8 holding back the middle-class tax cut?

9 COMMISSIONER SCHMIDT: I believe the
10 fiscal associated with the delay of the
11 middle-class tax cut by one year is
12 \$400 million, or around there.

13 SENATOR O'MARA: And how much is the
14 film tax credit annually in New York?

15 COMMISSIONER SCHMIDT: I believe it's
16 also around \$400 million, although the fiscal
17 within the next year is zero, it's an
18 extension now in the outyears.

19 SENATOR O'MARA: So the Governor feels
20 it's a better course of action to withhold a
21 middle-class tax cut than it is to continue
22 over \$400 million of tax credits to
23 Hollywood?

24 COMMISSIONER SCHMIDT: I appreciate

1 the comparison, Senator.

2 I think it's apples and oranges,
3 insofar as one is about providing long-term
4 certainty for an industry -- again, it has no
5 fiscal impact until 2026; the other is an
6 unfortunate but necessary action that would
7 have to be taken if we don't get federal aid.

8 Now, again, it's not the Executive's
9 position that anyone wants to see the
10 middle-class tax cut get delayed. That's
11 provided important relief, it's been an
12 important component of making our tax code
13 fair and more progressive. It would be an
14 unfortunate result if in fact we don't get
15 the federal aid.

16 SENATOR O'MARA: How much more than
17 the \$6 billion that the Governor is banking
18 on would the state need to receive from the
19 federal government to forgo that middle-class
20 tax cut stay?

21 COMMISSIONER SCHMIDT: Ultimately, as
22 the Governor said, he is expecting a
23 \$15 billion aid from the federal government.
24 There are a set of actions -- including the

1 one-year delay in the middle-class tax cuts,
2 including the high-income revenue raiser,
3 including other issues on the spending
4 side -- that are all contingent on that.

5 How that plays out based on the amount
6 of federal aid, I would refer that question
7 to the Governor or the Division of the
8 Budget. It ultimately will be up to the
9 Legislature and the Executive through the
10 budget negotiation process.

11 SENATOR O'MARA: I would submit, and
12 if you could take this back with you, that
13 the first 400 million above 6 billion that we
14 get goes to provide that middle-class tax cut
15 in this next year.

16 COMMISSIONER SCHMIDT: Happy to take
17 that back.

18 SENATOR O'MARA: One last question in
19 my time. What percentage of the annual state
20 revenues are derived from the {inaudible}
21 services industry?

22 COMMISSIONER SCHMIDT: I'm sorry,
23 Senator, you just broke up there. I didn't
24 quite hear you.

1 SENATOR O'MARA: What percentage of
2 total revenues of the state are attributable
3 to the financial services industry on an
4 annual basis?

5 COMMISSIONER SCHMIDT: I believe
6 roughly 20 percent of the personal income tax
7 is attributable to the financial services
8 industry. But let me check that number and
9 get back to you.

10 SENATOR O'MARA: Would that be the
11 single largest sector of revenues for
12 New York?

13 COMMISSIONER SCHMIDT: I believe so.

14 SENATOR O'MARA: You know, I share the
15 concern with many others that increasing
16 taxes on that industry, which would include
17 those high earners that make up that
18 industry, as well as the discussions of a
19 stock transfer tax, would be detrimental to
20 that industry.

21 And we've seen certain financial
22 service businesses leave the state for
23 greener pastures, others talking about it in
24 the wake of these discussions of higher

1 taxes.

2 You know, what risk level do you
3 assign to increasing these taxes on the
4 financial services industry and those that
5 work in the industry? How much is the risk
6 that we're going to run them out of the
7 state?

8 COMMISSIONER SCHMIDT: I think there
9 is a great deal of uncertainty right now. I
10 think that a combination -- I think the
11 impact of SALT alone on high-income taxation
12 in the state made this conversation very
13 different than it was before in terms of what
14 those effective tax rates are at the state
15 level.

16 When you combine that with the impact
17 of the pandemic, which has fully upended how
18 people think about residency, how people
19 think about where to locate their work,
20 changes in norms and expectations around the
21 workplace, I think there's good reason to be
22 cautious around a whole number of these
23 measures.

24 SENATOR O'MARA: Well, I just continue

1 to wonder, you know, which straw that we pile
2 on the camel's back is actually going to
3 break it. And I think we're near that
4 breaking point and we should be very cautious
5 moving forward on anything that will really
6 kill the golden goose of New York State.

7 Thank you for your time today,
8 Commissioner.

9 CHAIRWOMAN KRUEGER: Thank you.
10 Assembly.

11 CHAIRWOMAN WEINSTEIN: Yes, we're
12 going to go to Assemblyman Cahill for a
13 question.

14 ASSEMBLYMAN CAHILL: Thank you, Actual
15 Real Chair.

16 Commissioner, I am uniquely interested
17 in the administration of the Department of
18 Taxation and Finance because I spent the
19 first 12 years of my life in the very
20 building that you're in, being part of that
21 administration. I'm a little interested in
22 the provision in the Governor's proposal to
23 increase the penalties on tax preparers and
24 facilitators. It's a pretty significant and

1 hefty increase for an industry that is
2 populated in many instances by
3 very-low-income people with, you know, some
4 level of training.

5 Is there a compliance problem that is
6 sought to be addressed here? And if so, is
7 this the least intrusive way to improve that
8 compliance?

9 COMMISSIONER SCHMIDT: Thank you,
10 Assemblyman. We do think there's a problem
11 in the tax preparation industry.

12 A little bit of background. There are
13 different categories of tax preparers. There
14 are CPAs and lawyers subject to those
15 rigorous training requirements. There are
16 enrolled agents, which are agents that are
17 certified, enrolled with the IRS, subject to
18 continuing education requirements,
19 examination requirements, oversight by the
20 IRS.

21 And then there are a set of tax
22 preparers who aren't subject to any of that
23 oversight. And what that really means is
24 that there's a lot of opportunity for abusive

1 behavior in certain segments of the market.

2 Now, not every tax preparer is engaged
3 in unscrupulous activities, but I do think
4 that we have an interest as a state to make
5 sure that there is oversight of the industry
6 in those areas where there aren't other
7 mechanisms for providing that oversight. I
8 think it particularly has an impact on
9 low-income communities.

10 So what the proposal in the Executive
11 Budget does is suggest a set of tools that
12 would allow us to strengthen that oversight,
13 and that would allow us to ensure a greater
14 measure of transparency around taxpayer
15 rights and around fees with respect to how
16 the tax preparation industry operates.

17 And yes, I do think it's important,
18 because oftentimes when a tax preparer does
19 something improper or aggressive on a
20 taxpayer's return, they have no idea. Right?
21 It's no fault of their own. But our only
22 recourse as the department is to begin by
23 scrutinizing that return, and so the taxpayer
24 gets hurt twice in that context.

1 So I appreciate you asking about the
2 proposal. I do think it's important for us
3 going forward.

4 ASSEMBLYMAN CAHILL: Thank you,
5 Commissioner. I've run out of time, but I
6 have another question about sales tax
7 receipts. But I'll hold off and I'll send
8 that to you by phone. Thank you.

9 COMMISSIONER SCHMIDT: Okay, that
10 sounds great. Look forward to it.

11 CHAIRWOMAN WEINSTEIN: So we go back
12 to the Senate then.

13 CHAIRWOMAN KRUEGER: Thank you.

14 And our next questioner is
15 Senator Julia Salazar from Brooklyn.

16 SENATOR SALAZAR: Thank you, Chair.

17 And thank you, Commissioner, for your
18 testimony today.

19 I wanted to start by asking again
20 about the Executive's PIT surcharge proposal.
21 Do you believe that the full repayment
22 mechanism outlined in the Executive's
23 proposal is actually necessary in order to
24 retain the taxpayers who would be impacted

1 who earn more than \$5 million per year in our
2 state?

3 COMMISSIONER SCHMIDT: Thank you for
4 the question.

5 I believe, first and foremost, that it
6 would help address what I indicated before
7 which is the most immediate challenge, which
8 is the short-term fiscal challenge we have as
9 a state.

10 As to what's necessary for maintaining
11 or forgoing migration or keeping the tax base
12 in New York State, I think again it certainly
13 helps. None of us has a crystal ball, but I
14 think it would help.

15 SENATOR SALAZAR: And to follow up on
16 Senator Benjamin's point regarding delaying
17 the middle-class tax cut versus instead
18 implementing a more substantial or sustained
19 personal income tax surcharge or personal
20 income tax increase, or increase in the tax
21 rates on millionaires and billionaires,
22 approximately how many New Yorkers would be
23 directly affected by the delay in
24 middle-class tax cuts?

1 COMMISSIONER SCHMIDT: I believe it
2 affects 4.7 million filers.

3 SENATOR SALAZAR: And by comparison,
4 how many New Yorkers, approximately, would be
5 directly impacted by the Executive's
6 surcharge proposal?

7 COMMISSIONER SCHMIDT: Seventeen
8 thousand.

9 SENATOR SALAZAR: Thank you.

10 And the Governor has proposed -- the
11 Governor has proposed using federal stimulus
12 funds to supplant state obligations -- for
13 example, in the state's education budget.

14 Given that the federal stimulus is
15 only a one-time funding stream and is not
16 annual recurring tax revenue -- or tax
17 revenue at all -- do you think this is a
18 sustainable way to fund the state's ongoing
19 costs and obligations, essential services?
20 And how does the administration propose to
21 address outyear funding gaps that would
22 result from the practice of relying on
23 federal funds rather than state revenue?

24 COMMISSIONER SCHMIDT: Thank you for

1 that question, Senator. I appreciate that
2 question. Unfortunately, I'm going to have
3 defer answer on it.

4 I'm really engaged in the collection
5 of revenue, the administration of the tax
6 system. That's a question that is really
7 more about the structuring of the overall
8 budget, so it's a little bit beyond my
9 purview.

10 SENATOR SALAZAR: Certainly. Thank
11 you, Commissioner. Appreciate it.

12 COMMISSIONER SCHMIDT: Thanks.

13 CHAIRWOMAN KRUEGER: Assembly.

14 CHAIRWOMAN WEINSTEIN: We do not -- we
15 have our Real Property chair for seconds.
16 But do you want to go before that or --

17 CHAIRWOMAN KRUEGER: All right, so I
18 think it's me. Just double-checking. Does
19 my Budget Revenue chair want a second round,
20 Brian Benjamin?

21 SENATOR BENJAMIN: Yes, I actually
22 have a couple of questions that Julia Salazar
23 sort of brought to my head. Sorry,
24 Commissioner.

1 CHAIRWOMAN KRUEGER: Wait, wait, wait,
2 wait. Okay, so we'll let the Assembly go --

3 SENATOR BENJAMIN: Oh, sorry. Sorry.
4 I'm sorry, I'm roaring and ready to go.

5 CHAIRWOMAN KRUEGER: And then I'll let
6 you go, and then I'll close us out. That's
7 fine.

8 Assembly.

9 CHAIRWOMAN WEINSTEIN: Yes, okay.
10 So, Sandy Galef, you have five minutes
11 for some additional questions.

12 ASSEMBLYWOMAN GALEF: All right. I
13 was just going to follow up a little bit on
14 the Office of Real Property Tax Services.

15 And in our last discussion you
16 indicated, Commissioner, that they didn't --
17 the independent appeal wasn't -- you wanted
18 to take that responsibility over because the
19 board wasn't timely.

20 And I would just like to ask a
21 question of the board. I know you're trying
22 to change it so the majority is the quorum
23 that's there. My understanding is you just
24 haven't -- the Governor hasn't appointed

1 people to the board. I think that's my first
2 question.

3 The other is can't you have a board
4 that conducts itself by Zoom and then you can
5 be much more timely with all of the issues?

6 And I'd also like to ask about the
7 hearings that you end up with no complaints
8 and you'd like to not have those hearings. I
9 wonder how many there are of those.

10 Could you just give me a little
11 background on this board?

12 COMMISSIONER SCHMIDT: Sure.

13 So it's a five-member board. It is
14 a -- my understanding is it's a legacy of
15 when the Office of Real Property Tax Services
16 was independent of the department. There was
17 a merger of the two, but the board remained.

18 There are three members currently on
19 it. We are grateful for their work. They
20 are fantastic and committed and do a really
21 great job. It is not the easiest board to
22 fill because it is not a paid position, and
23 historically has required a great deal of
24 travel for in-person meetings.

1 You know, you raised the question of
2 remote meetings, Zoom meetings. I believe
3 that's something we've been able to do as an
4 emergency measure during COVID. I'm not
5 sure, I'd have to go check with my team here
6 with respect to whether, you know, the law
7 will allow us to do that going forward. But
8 there has been a good deal of friction just
9 in terms of getting those meetings together,
10 getting a quorum and, you know, getting --
11 keeping things going.

12 You know, the board has many
13 functions. This review of STAR exemption
14 complaints is just one piece of it. I
15 think -- I don't want to speak for the
16 assessors, but I think the assessors are
17 comfortable with the department playing this
18 role. As I said, it's consistent with some
19 roles we've played in other areas across
20 other tax types. And so I do think it's a
21 proposal that we could effectuate to the
22 benefit of the taxpayer.

23 ASSEMBLYWOMAN GALEF: All right. I'd
24 just like to say I'm planning on recommending

1 that you are able to use Zoom if you can't
2 legally, because I really think an
3 independent board is really important.

4 Can you also tell me, though, about
5 the local option requirements when we have
6 exemption programs? And my understanding is
7 you're trying to change this because the
8 populations change. So you have an exemption
9 that has a population in it, and all of a
10 sudden -- I don't know what happens. Does
11 this happen often that you have a law that
12 probably we've passed that just doesn't fit
13 in with the population of the group?

14 COMMISSIONER SCHMIDT: So the issue is
15 an exemption that's available to a certain
16 population segment, to localities of certain
17 populations, and then they opt in. And then
18 the population grows, so they're no longer in
19 that population segment.

20 We've gotten that question, are they
21 still eligible for that. Now, the intent is
22 for them to still be eligible. I believe our
23 understanding of current law is that they're
24 still eligible, but there's been some

1 confusion around the issue. I don't think
2 it's been a ton of confusion, to your point.
3 But there's been some confusion around the
4 issue, so we just wanted to provide a
5 clarifying legislative fix.

6 ASSEMBLYWOMAN GALEF: Has it come up
7 many times?

8 COMMISSIONER SCHMIDT: I don't have
9 the numbers, but I can get back to you on
10 that.

11 ASSEMBLYWOMAN GALEF: Okay. And, you
12 know, we have been talking about governors,
13 commissioners and staff and everything.
14 Please do get back to us on issues.

15 COMMISSIONER SCHMIDT: No, we're
16 taking notes.

17 ASSEMBLYWOMAN GALEF: A really
18 important thing for all of us.

19 COMMISSIONER SCHMIDT: We're taking
20 notes, absolutely.

21 ASSEMBLYWOMAN GALEF: Okay. And are
22 you going to be talking also with the
23 assessors about merging the real property
24 transfer forms that you have? It sounds like

1 a really good idea. Westchester's already
2 done it, they're in an e-filing system and so
3 on.

4 Do you have support from your -- the
5 local assessors about doing it that way?

6 COMMISSIONER SCHMIDT: I do believe
7 there's a general level of comfort.

8 I think the system as it currently
9 operates is kind of archaic and could use
10 some modernization. And there are two
11 different forms, and we want to merge them
12 together and make the whole thing kind of
13 more modern and streamlined. So I do think
14 there's local support.

15 Of course you are -- maybe the
16 assessors will have a different view when
17 they have the opportunity to testify after me
18 today. But to the extent there are concerns,
19 we'd be more than happy to engage and try to
20 work through them. Because again the point
21 is to just streamline and modernize the
22 current system.

23 ASSEMBLYWOMAN GALEF: Sounds like a
24 good idea. Thank you very much.

1 COMMISSIONER SCHMIDT: Thanks.

2 CHAIRWOMAN WEINSTEIN: To the Senate
3 now.

4 COMMISSIONER SCHMIDT: Senator, I
5 think you're on mute. Senator Krueger?

6 CHAIRWOMAN KRUEGER: Brian Benjamin,
7 do you mind if I take my first round and then
8 you'll do your second round?

9 SENATOR BENJAMIN: I do not mind at
10 all.

11 CHAIRWOMAN KRUEGER: Okay, thank you.

12 Hi, Michael.

13 COMMISSIONER SCHMIDT: Hello.

14 CHAIRWOMAN KRUEGER: So you were asked
15 about several things, but one of them that
16 you brought up was SALT. And I know that we
17 have a testifier a couple of panels down,
18 E.J. McMahon, who's going to tell me that
19 SALT didn't really impact the super-wealthy
20 because they were on the alternative minimum
21 tax anyway.

22 And so when you said you think that
23 SALT had a significant impact on the taxes of
24 the ultrawealthy, the 5-million-and-up people

1 in New York State, what's that based on? I
2 need to understand that.

3 COMMISSIONER SCHMIDT: So a couple of
4 things.

5 One is I don't know if E.J. would say
6 that about those taxpayers. You know, the
7 AMT is certainly a factor in terms of
8 understanding the impact of SALT. Although
9 the number of taxpayers affected by it, it
10 actually depends on those taxpayers'
11 individual circumstances, the deductions they
12 take, et cetera. So there are a large number
13 of taxpayers in that bracket who are affected
14 by it.

15 The second point I make is the AMT is
16 much smaller now. So if you look
17 prospectively at the impact of SALT on
18 New York's competitiveness and taxpayer
19 behavior, the AMT doesn't quite loom so
20 large.

21 So what matters right now is someone
22 who is looking at their current situation and
23 saying, do I want to stay in New York, do I
24 want to invest in New York, or do I want to

1 be somewhere else? Right now the AMT is much
2 smaller and so the impact, the relevance in
3 that context is diminished.

4 CHAIRWOMAN KRUEGER: So I was asked to
5 ask you, on behalf of one of my colleagues
6 who couldn't be here, a couple of questions
7 about -- I think it's mostly -- it relates to
8 a proposal that he actually has. Sorry, I'm
9 just trying to make sure. So I think it's
10 his bill to recreate the stock transfer tax
11 or a financial transaction tax.

12 So his questions are, how much stock
13 transfer tax was collected in New York State
14 in 2020 before it was rebated? And then the
15 second related question: And why was that
16 amount of stock transfer tax collected, why
17 has it been decreasing over the last several
18 years, since we look at the stock market and
19 it seems like there's more stock transactions
20 over the last few years? So why would these
21 be going in conflicting directions?

22 COMMISSIONER SCHMIDT: So the state
23 didn't actually collect any revenue related
24 to stock transfer tax, and hasn't done so

1 since 1981. There's been a bit of confusion
2 in this area, I think, so I appreciate the
3 opportunity to provide a little better
4 background here.

5 There was a stock transfer tax in New
6 York State that existed until 1981, and it
7 was repealed at that time. The mechanism for
8 that repeal, however, was by providing a full
9 rebate of the amount of the tax for affected
10 taxpayers. The reason for that was that
11 there were New York City bond covenants that
12 were covered by that revenue. So as a legal
13 matter, they didn't want to -- they didn't
14 want to actually take the tax off the books.
15 But as a practical matter, the way that full
16 rebate was effectuated was by no longer
17 requiring the tax be collected at all. So
18 instead of saying we're going to collect all
19 the tax and then fully rebate it, the state
20 made the decision not to collect the tax at
21 all.

22 There remain reporting requirements
23 for the tax on the books, however, and so
24 large broker-dealers continue to report

1 through the clearinghouse. That's how the
2 system was set up. So we get these reports,
3 but they're basically journal entries.
4 There's no money that changes hands, there's
5 no bank account that's filled with a billion
6 dollars of stock transfer tax revenue that is
7 then rebated. It's basically a journal
8 entry.

9 And as for why the amount of the --
10 why the revenue reported by those journal
11 entries has gone down, it's simply that a
12 number of large broker-dealers stopped
13 submitting those reports. And so it has no
14 actual relationship to the underlying
15 transactional activity.

16 CHAIRWOMAN KRUEGER: So if in real
17 life we did collect a tax, it conceivably
18 would be significantly more than the reports
19 we're getting show, because you're telling us
20 that a decent number of the folks don't
21 submit those reports anymore.

22 COMMISSIONER SCHMIDT: On a static
23 basis, that might be true. Although I think
24 on a dynamic basis, when you consider the

1 effect that even a seemingly small tax would
2 have on trading activity and migration,
3 relevant location of jobs, I would just say
4 there's a lot of uncertainty about that. And
5 I'd be very cautious about banking on any
6 revenue associated with a financial
7 transaction tax proposal.

8 CHAIRWOMAN KRUEGER: And has the state
9 taken a look, do most stock exchanges have
10 transaction taxes?

11 COMMISSIONER SCHMIDT: Well, no
12 exchanges -- there are no stock transfer
13 taxes in the United States. And so there's a
14 very small one at a national level
15 administered by the SEC that helps to fund
16 the SEC's operations and operates on a
17 relatively small base.

18 But from a -- within the United
19 States, no state imposes a stock transfer
20 tax. And so that -- you know, for one state
21 to do that, that risk of migration becomes
22 elevated in terms of that activity happening
23 within the country.

24 CHAIRWOMAN KRUEGER: And then there's

1 another proposal -- you know, we've been
2 looking at every single proposal that any
3 legislator puts in. We're open to all ideas
4 that could help New York State.

5 But there's another proposal that's
6 being called the mark-to-market proposal.
7 Has that been operationalized anywhere? Are
8 you familiar with that? And how would you do
9 it if we actually passed it in the
10 Legislature and it would be up to you to
11 ensure it was done?

12 COMMISSIONER SCHMIDT: From an
13 administrative perspective, that has again
14 not been operationalized at least within the
15 United States.

16 There are proposals at the federal
17 level to think about a mark-to-market -- as
18 you're familiar with the wealth tax concept
19 which has been floated by some at the federal
20 level. And so some thinking I think has gone
21 into it around there at the federal level --
22 less at the state level where, again, I think
23 that that risk of migration is more acute.

24 I think from the standpoint of, you

1 know, the department's capacity, that would
2 be, you know, like learning a completely
3 different sport than the sport we're
4 currently playing, because it would require
5 reporting and then auditing of asset
6 valuation in a way that is just currently not
7 undertaken with any significant scale in the
8 state.

9 CHAIRWOMAN KRUEGER: And has the
10 Governor asked you to evaluate any of these
11 new proposals that people are lobbying us
12 around, advocating for? I mean, I know I
13 have my Finance staff trying to do the best
14 job they can evaluating the who, what, where,
15 why. Is that something that the Governor's
16 office says to you: Michael, get me the
17 explanation of how this would work or how it
18 wouldn't work or how much money we might see?

19 COMMISSIONER SCHMIDT: Certainly we
20 are in constant dialogue with the Governor's
21 office and with the Division of the Budget
22 around a range of proposals, including
23 proposals that have been before by the
24 Legislature, and so we engage in those

1 activities when asked.

2 CHAIRWOMAN KRUEGER: Whenever I'm
3 asked about taxes and the need for more of
4 them, I always say that I believe we do need
5 more revenue, but I'm pretty agnostic about
6 how we get it. The least disruptive way
7 possible would be preferable.

8 So under your assignment of doing work
9 for the Governor, are there any proposals
10 that are least disruptive and most obvious
11 that we could actually implement them?

12 COMMISSIONER SCHMIDT: Well, I think
13 the Governor has put forward his ideas of
14 the, you know, proposals that could be
15 considered as his Executive Budget.
16 Obviously all in the context of what the --
17 you know, what we're all hoping, expecting to
18 see from the federal government.

19 You know, Senator, I will say that
20 another -- another point to be aware of here
21 is that, you know, we should be really proud
22 of the fact that as a state we do have a very
23 progressive tax code, and one that does rely
24 on high-income New Yorkers to raise a very

1 significant amount of revenue by some
2 measures, including one I recently saw
3 calculated by the Tax Policy Center.

4 We are the most progressive tax system
5 in New York State, very generous benefits
6 administered through the tax code for
7 low-income individuals. It's one reason I'm
8 very proud to be commissioner of the tax
9 system here in New York State, and I think,
10 you know, that system has actually served us
11 relatively well in this pandemic as we
12 continue to collect revenue from those high
13 earners.

14 CHAIRWOMAN KRUEGER: Okay. Oh, I've
15 used up my time. Thank you very much.

16 Assemblywoman?

17 CHAIRWOMAN WEINSTEIN: Yes, we have a
18 member who's joined us to ask a question,
19 Assemblyman Zohran Mamdani.

20 ASSEMBLYMAN MAMDANI: Thank you so
21 much, Chairwoman.

22 First I just want to address Senate
23 chair of Budget and Revenue Brian Benjamin.
24 I just wanted to say thank you so much for

1 cosponsoring the Invest in Our New York Act,
2 I just saw that today. I just wanted to say
3 thank you. I grew up in your district.

4 Commissioner, it is nice to meet you.
5 My name is Zohran Mamdani. I am the
6 Assemblymember from Northwest Queens and
7 Astoria, A.D. 36.

8 I had a couple of questions that I
9 wanted to ask today, and the first was what
10 annual income brackets do you define as
11 middle class?

12 COMMISSIONER SCHMIDT: I don't
13 personally have any definition of middle
14 class. We administer the tax code as enacted
15 by the Governor and the Legislature.

16 ASSEMBLYMAN MAMDANI: Okay, thank you
17 very much.

18 Additionally, my second question is
19 our current personal income tax system has
20 four tax brackets with progressively
21 increasing rates between zero dollars to
22 \$21,000 annually; however, after that point
23 the brackets become much wider and flatter,
24 with the same one tax rate applying to those

1 who earn \$215,000 a year up to about a
2 million dollars. Can you explain how this
3 fits into your description of this tax system
4 as being an extremely progressive one?

5 COMMISSIONER SCHMIDT: Well, I think
6 when you look at the tax burdens in the
7 personal income taxes that fall on the
8 residents in New York, you have the top
9 1 percent is paying 40-plus percent of the
10 personal income tax, you have, you know, the
11 bottom 20 percent, 30 percent, 40 percent on
12 net getting benefits out of the tax code,
13 often, because of really generous programs
14 we've set up around the earned income tax
15 credit, the child tax credit, the child and
16 independent care credit.

17 So, you know, on the one hand we
18 have -- we are collecting a lot of tax on the
19 high end. I think when you add in the
20 New York City income tax on top of that, a
21 top income tax rate of 12.7 percent under
22 current law, which is right up there among
23 the highest in the country, and then the
24 middle-class tax cuts fit in, and then the

1 really compelling, generous, progressive
2 benefits that we provide at the lower end of
3 the spectrum, I think that's why in terms of
4 these independent indices we do end up
5 looking very, very progressive relative to
6 other states.

7 ASSEMBLYMAN MAMDANI: And I just
8 wanted to follow up. You just said "middle
9 class," so what does that refer to in that
10 description?

11 COMMISSIONER SCHMIDT: That's a
12 colloquial -- that's how -- the phase-in of
13 the tax cuts that were enacted a few years
14 ago by the Governor and the Legislature.

15 ASSEMBLYMAN MAMDANI: And what did --
16 and what did those refer to in terms of
17 income?

18 COMMISSIONER SCHMIDT: I think they
19 start at -- they start at around \$300,000 and
20 have been -- and have been, you know,
21 increasing with inflation from there.

22 ASSEMBLYMAN MAMDANI: Okay. Thank you
23 very much.

24 COMMISSIONER SCHMIDT: Sure.

1 CHAIRWOMAN WEINSTEIN: Senate?

2 CHAIRWOMAN KRUEGER: Thank you.

3 We have Brian Benjamin for a second
4 round of five minutes.

5 SENATOR BENJAMIN: Thank you so much,
6 Madam Chair.

7 So just a couple of quick questions.
8 One is I think we mentioned to you,
9 Commissioner, a few of the Invest in Our
10 New York Act proposals. Two that have not
11 come up this year, it was a capital gains tax
12 and an inheritance tax. Are you aware of
13 those proposals, and have you given those any
14 consideration?

15 COMMISSIONER SCHMIDT: I'm aware of
16 the proposals. I haven't -- I can't say I'm
17 specifically -- I'm familiar with all of the
18 specific details. But I'm certainly aware of
19 some of the general concepts.

20 SENATOR BENJAMIN: Got it. Okay,
21 we'll talk about that offline.

22 So let me go back to something that
23 was an important point that I think Julia
24 Salazar brought up. So you mentioned that

1 17,000 filers at the 5 million and above
2 level, and that 4.7 million filers are
3 impacted by the middle-class tax cuts.

4 Can you give me a sense -- and give us
5 a sense, because I think this is an important
6 issue -- can you give us a sense of what
7 percentage of the tax revenue is generated by
8 those in the -- these 17,000 filers? What
9 percentage of the revenue do they account
10 for?

11 COMMISSIONER SCHMIDT: That's a good
12 question. I know that the top 1 percent of
13 filers in New York State generate I think
14 around 44 percent of the annual revenue.
15 Those above 5 million, that's not a cut of
16 the data I've personally seen, at least not
17 recently, but I'd be happy to get back to you
18 with that information.

19 SENATOR BENJAMIN: Got it. So --
20 because I'm just trying to -- you know,
21 obviously you're going to also get back to us
22 with information on how the tax filings have
23 been occurring so we can get a sense of this
24 taxpayer migration issue. Which by the way,

1 we all have to be concerned about.

2 What I'm trying to -- what I want us
3 to hone in a little bit on is, you know,
4 where's the trigger. So let's say, for
5 example, you know, the -- those at
6 100 million and above, which I think is a
7 point that you were trying to reference
8 earlier -- let's assume all of those people
9 left. What impact does that have on our
10 revenues?

11 COMMISSIONER SCHMIDT: That would have
12 a traumatic impact on our revenues. I
13 can't -- again, I don't have the specific
14 numbers in front of me, but just off the top
15 of your head a taxpayer making \$100 million
16 in a year, they're paying 12.7 of that to
17 New York State, just that one taxpayer would
18 have a meaningful impact, you know, equal to,
19 you know, a very significant impact.

20 So I think it is important as we talk
21 about the risk of high-income migration that
22 we note that it actually doesn't take that
23 many taxpayers to move the needle
24 meaningfully, just because -- you know, for

1 the very reason that the income tax is so
2 progressive and is so geared towards raising
3 resources from those wealthiest individuals.

4 SENATOR BENJAMIN: I think it would be
5 helpful for us to get some more specifics on
6 what you're talking about here. I know that
7 this is something that comes up in the
8 conference a lot, people try to understand
9 what -- you know, I feel like we too often
10 have this conversation in theory and
11 emotions. So it would be helpful if you can
12 kind of lay out what exactly is involved here
13 with these numbers.

14 And, you know, there are a number --
15 there's a difference of opinion. A number of
16 people believe that they won't leave if we
17 raise taxes by a couple of percentage points,
18 and then some people say they will. But, you
19 know, I think you need to let us know exactly
20 what's happening on the ground so that we can
21 take into consideration with what --

22 COMMISSIONER SCHMIDT: I'd be pleased
23 to continue those conversations and to be
24 helpful in any way I can.

1 I would say, though, that we are in a
2 period of such significant uncertainty with
3 respect to the state's economy and really the
4 future of the national and the global
5 economy. So again, the compounding effects
6 of the cap on state and local taxes with the
7 pandemic where, you know, people have moved
8 out of the state and they're deciding whether
9 to come back, all the inertia around
10 migration has potentially dissipated. So I
11 think the level of uncertainty we have right
12 now regarding the impact of tax changes on
13 our tax code is as heightened as it's
14 probably ever been. And I think, you know,
15 at a minimum that all argues for caution.

16 SENATOR BENJAMIN: Now, the
17 4.7 million filers, what percentage of the
18 tax revenue do they account for?

19 COMMISSIONER SCHMIDT: Again, I'd have
20 to --

21 (Overtalk.)

22 COMMISSIONER SCHMIDT: I'd have to
23 look at those numbers and get back to you.

24 SENATOR BENJAMIN: Okay. So let me

1 ask you a quick question before my time is up
2 on the past-through entity tax.

3 So what percentage of folks who are
4 impacted by the SALT issue still will have
5 issues even if we implement this pass-through
6 entity tax? I mean, this doesn't cover
7 everybody, correct?

8 COMMISSIONER SCHMIDT: No, definitely
9 not.

10 I mean, I think it's potentially an
11 important step. It would affect taxpayers
12 who earn their money through pass-through
13 entities, so a certain type of business
14 income could potentially benefit from the
15 proposal. But other forms of earnings --
16 wage earnings, capital gains, dividends,
17 rental income, et cetera -- wouldn't benefit
18 necessarily. Unless -- you know, unless
19 earned in a way that was structured to
20 benefit from the tax.

21 SENATOR BENJAMIN: So we would still
22 need the repeal of the SALT deduction for
23 everyone else.

24 COMMISSIONER SCHMIDT: No question.

1 SENATOR BENJAMIN: All right. Thank
2 you so much, Madam Chair. And thank you so
3 much, Commissioner.

4 COMMISSIONER SCHMIDT: Thanks,
5 Senator.

6 CHAIRWOMAN KRUEGER: Great. Assembly?

7 CHAIRWOMAN WEINSTEIN: I believe we
8 are finished. And there's no further
9 Senators, correct?

10 CHAIRWOMAN KRUEGER: Correct.

11 CHAIRWOMAN WEINSTEIN: Okay. So
12 Commissioner Schmidt, it's been a pleasure
13 having you here. We look forward to some of
14 your follow-up responses, and I'm sure that
15 we'll be having continued conversations as we
16 go on to negotiate the budget. Thank you for
17 being here.

18 And we're going to now move on to our
19 nongovernmental witnesses. We're going to
20 call Panel A, which has been shrinking. We
21 have the Fiscal Policy Institute, Dr. Jonas
22 Shaende, chief economist. Mr. Henry I
23 believe had to leave and may join a later
24 panel. Susan Harley is unfortunately ill. So

1 the only other panel member is Strong Economy
2 for All Coalition, Michael Kink, executive
3 director.

4 So if we could have those two folks
5 here. And why don't we go in that order,
6 starting with Fiscal Policy Institute.

7 Yes, you can begin, yes. We can't
8 hear you, though you don't appear to be
9 muted. So can you --

10 MR. SHAENDE: Can you hear me now?

11 CHAIRWOMAN KRUEGER: Yes, we can.

12 CHAIRWOMAN WEINSTEIN: Yes, we can.

13 MR. SHAENDE: Okay, thank you.

14 Good afternoon, and thank you for the
15 opportunity to testify before this committee.
16 I'm Jonas Shaende, chief economist at the
17 Fiscal Policy Institute, an independent
18 nonprofit research and education
19 organization.

20 This year's budget is historic in its
21 challenge and opportunity -- \$15 billion is a
22 very significant budget gap. And New Yorkers
23 need a plan that will keep them afloat and
24 set a course for rebuilding our economy for

1 lasting and shared success past the pandemic.

2 To deal with the challenge, the state
3 of course absolutely requires the federal
4 government's assistance, but more can be
5 done, and more is needed. And with this
6 said, we believe that the Executive Budget
7 deserves to be revised first for its unusual
8 conditional scenario type of nature, and
9 second for insufficient revenue actions that
10 in our opinion seem to miss the mark in
11 meeting the needs of the moment.

12 So our written testimony details some
13 of the identified practical solutions for the
14 short term, totaling at the low end
15 \$18 billion to \$24 billion in new revenue.
16 It's much longer, so I will not read it here,
17 but you will see that there are some
18 low-hanging fruits there like PIT changes,
19 the personal income tax; the GILTI
20 compliance; and the look at the tax
21 expenditures and corporate tax.

22 Also we believe that this moment
23 offers relevance to policy innovations in the
24 form of, just to name a few, the billionaire

1 mark-to-market tax, the pied-à-terre tax, the
2 vacant houses tax, some version of a data
3 tax, and perhaps even a non-essential online
4 deliveries surcharge that could work on
5 multiple levels.

6 The long-term objective should of
7 course be -- should include a more just tax
8 structure, appropriate levels of state
9 expenditure on education, housing and public
10 well-being, as well as providing relief to
11 our cash-strapped local governments, small
12 businesses, and social programs.
13 Unfortunately, we did not see much in the way
14 of that in the Executive Budget.

15 There is no single tax or single
16 solution or easy answer to solve fiscal
17 problems or challenge economic inequality,
18 but the crisis does require bold vision and
19 willingness to examine meaningfully the
20 state's corporate and individual tax policies
21 and change them so that they serve all
22 New Yorkers.

23 FPI looks forward to a productive
24 budget process where all parties are working

1 together on sound and responsible public
2 policies all New Yorkers need and deserve.

3 Thank you.

4 MR. KINK: Thanks to the chairs and to
5 the members of the Legislature. My name is
6 Michael Kink. I'm here with the Strong
7 Economy for All Coalition. We're a coalition
8 of community organizing groups and labor
9 unions that has been working on economic,
10 social and racial justice for the past 10
11 years.

12 I'm here to speak out strongly in
13 favor of the Invest in Our New York revenue
14 package that's been under some discussion
15 today and during this session of the
16 Legislature. We think that New York needs
17 tax policies that directly address our
18 worst-in-the-nation inequality. We need to
19 tax high incomes, we need to tax wealth, and
20 we need to tax corporations. And we need to
21 have that progressive revenue structure in
22 place (1) for reinvesting in the education,
23 healthcare, transportation, housing and just
24 climate transition that all New Yorkers need;

1 and (2) to take advantage of the recovery
2 that is likely to come after we get through
3 the worst of the COVID epidemic.

4 I agree with Jonas; we need a lot of
5 help from the federal government and we are
6 going to get a lot of help from the federal
7 government. The question is after that money
8 is gone, what happens next? Putting a sound
9 progressive tax policy in place across
10 income, wealth and corporate taxes will allow
11 us to invest going forward. We won't just
12 use up the federal money and then be in a
13 hole, we'll be able to address decades of
14 disinvestment that started at least in the
15 Pataki administration and arguably since the
16 New York City fiscal crisis of the '70s.

17 I'll address briefly the myth of the
18 moving millionaires. Cristobal Young's
19 editorial in the Daily News today I think was
20 really important. In preparation for my
21 testimony I looked at Wealth-X, Knight-Frank,
22 Mansion Global -- all of them reiterated the
23 fact that New York is the only global
24 financial center in the United States of

1 America and has remained so during the
2 pandemic. London and Hong Kong are our only
3 global competitors for the super-rich. I
4 think the Legislature can feel comfortable
5 asking the wealthy, big corporations and
6 Wall Street to pay their fair share.

7 Finally, I'll address just briefly the
8 constitutionality of the mark-to-market tax
9 that was introduced by Senator Ramos and
10 Assemblymember De La Rosa. I know there's
11 been some discussion -- Article 16, Section 3
12 of the Constitution does not bar a yearly
13 income tax on economic gains. It bars an ad
14 valorem tax that would tax a percentage of
15 wealth every year, year after year, whether
16 that wealth goes up or down.

17 But the tax as currently formulated
18 doesn't do that. It asks billionaires to pay
19 an income tax on their investment gains. And
20 New York has used mark-to-market taxation for
21 the last 40 years in several sections of
22 securities trades. We've done it, and it's
23 been constitutional.

24 Thank you.

1 CHAIRWOMAN WEINSTEIN: Thank you.

2 We will go to -- Assemblyman
3 Braunstein has a question.

4 ASSEMBLYMAN BRAUNSTEIN: Thank you,
5 Chair Weinstein.

6 For the gentleman from FPI, you
7 mentioned the data tax. Just curious if you
8 could just expand a little bit more on that
9 on, you know, what it would look like and how
10 it would work.

11 MR. SHAENDE: Now of course the
12 research is still ongoing and there are many
13 versions of this kind of a tax, it's a policy
14 innovation. There are taxes on -- proposed
15 taxes on collection of data, so each chunk of
16 data would be valued and that value would be
17 taxed.

18 Also there is an idea in the
19 literature currently being discussed where
20 the -- you know, the consumer is engaging in
21 a kind of barter transaction with the
22 Facebook, with a big company, you know, the
23 Amazon. And in return, they get some kind of
24 a service. So there's no cash being paid,

1 and so that transaction becomes untaxed. So
2 taxing that could be, you know,
3 potentially -- potentially interesting.

4 So there are a lot of places that are
5 trying their own version of a data tax or are
6 thinking about it. I -- I know that some
7 Senators in the New York Senate are thinking
8 about this. And of course the ideas, you
9 know, are varied and there's no one way of
10 taxing data.

11 ASSEMBLYMAN BRAUNSTEIN: Okay. It
12 seems relatively new, it just piqued my
13 interest and I just wanted to see if you
14 could give more thoughts on it. I'll talk to
15 my colleagues who are working on it to find
16 out more. Thank you very much.

17 CHAIRWOMAN WEINSTEIN: Thank you.

18 Senate, do you have anyone?

19 CHAIRWOMAN KRUEGER: Anybody have
20 their hand up?

21 Brian Benjamin.

22 SENATOR BENJAMIN: I want to thank
23 Michael and Jonas for their testimony. I
24 have a quick question for Michael. Thanks

1 for your work on the Invest in Our New York
2 proposals.

3 One of the things that you
4 mentioned -- which is a constant issue of
5 discussion, so I want to get your -- words
6 from your own mouth on this. You mentioned
7 the myth of the moving millionaire. I want
8 to make sure I got that right. And you said
9 that the only place that they can go to is
10 Hong Kong. One of the commentaries that
11 we've been hearing people talk about is they
12 are going to Florida -- and they're still
13 keeping residences here, but they're spending
14 more time in Florida so they can count in
15 Florida's tax, et cetera, or other states.

16 Have you -- what's your answer to
17 that? What are your thoughts on that? And
18 what are the assurances you can give people
19 who are concerned about the moving
20 millionaire that they won't move?

21 MR. KINK: Well, the first thing that
22 I'd say -- and thank you for your
23 cosponsorship of the package today. I'll
24 second Mr. Mamdani's appreciation.

1 You know, look to recent history.
2 After 9/11 and after the '08 and '09 economic
3 collapse, we saw the exact same thing that
4 we're seeing now. We saw people saying
5 New York was over, we saw people with wealth
6 and means moving out of the city to other
7 places. Real estate took a temporary dip.
8 And in both cases, within the next two years
9 the entire market and the entire social,
10 cultural and economic infrastructure of
11 New York was back in place.

12 You can look to ancient history:
13 People moved back to London after the plague.

14 Right now those studies show that for
15 the finance industry in particular, London
16 and Hong Kong are the only two other global
17 centers of finance.

18 Now, Cristobal Young, the academic
19 that's at Cornell, looked at millionaire
20 migration. He did a comprehensive study for
21 Stanford and the IRS. He showed that most
22 people that move are working-class people and
23 retirees, that millionaires don't move in
24 response to marginal tax rates, and that

1 every state that's instituted higher taxes on
2 millionaires has gained in revenue and has
3 not lost significant amounts of
4 high-net-worth individuals.

5 We've seen that recently too. ITEP
6 issued a study even during the SALT years
7 that New York, New Jersey, Illinois,
8 California -- high-tech states have
9 benefited. We have more millionaires in all
10 of these big blue rich states than we had
11 before.

12 So it's something folks say a lot. I
13 think that Cristobal Young is an expert. You
14 should ask him to testify, you should have
15 him talk to the conferences. His op-ed in
16 the Daily News today is really illustrative.

17 And I think you can feel comfortable
18 making economic policy based on history and
19 academic studies. We can do this.

20 SENATOR BENJAMIN: Thank you. I look
21 forward to speaking with him, and I will
22 reach out to you offline for his contact
23 information.

24 Thank you, Madam Chair.

1 CHAIRWOMAN KRUEGER: Thank you.

2 Assembly?

3 CHAIRWOMAN WEINSTEIN: We do not have
4 anyone, so we're going to thank the two
5 gentlemen and we will move on to Panel B --

6 SENATOR RIVERA: Wait, I'm sorry. I'm
7 sorry, I thought that there might be an
8 Assemblyperson, and I've been -- I texted and
9 sent a message to Liz; she hadn't gotten it.
10 Apologies.

11 CHAIRWOMAN KRUEGER: No, I did not
12 look in my texts, I apologize.

13 CHAIRWOMAN WEINSTEIN: That's okay.

14 CHAIRWOMAN KRUEGER: Gustavo Rivera.

15 SENATOR RIVERA: Yeah, thank you.

16 CHAIRWOMAN WEINSTEIN: Okay. Okay.

17 SENATOR RIVERA: Thank you.

18 I wanted to quickly follow up on
19 exactly what we were talking -- what you were
20 talking about, since it is one of the main
21 discussions. There's been no argument from
22 anyone about the fact that during this
23 pandemic the wealthy have gotten wealthier.
24 Nobody has been able to say that that's not

1 factual. And it is also factual that
2 working-class people have been the ones that
3 consistently have been asked to sacrifice
4 through this entire time, and nobody can say
5 that that's not factual either.

6 So the thing that we have -- the
7 push-back that has been happening has been
8 around this issue. It's like no, we can't do
9 this because if we do, the wealthy will
10 leave. And so I think that for the most part
11 you did -- you did, you know, cover that.
12 But I wanted to dig a little bit deeper in
13 the two minutes that we have about the fact
14 that the folks who are leaving the state --
15 and this is not just recently -- but
16 certainly when people say, like, people are
17 leaving the state in droves, the people that
18 are leaving the state in droves are
19 working-class people, many of whom would
20 actually benefit from when we hopefully
21 establish the Invest in Our New York package
22 and we get the revenue that we get there,
23 then we can actually invest that money,
24 whether it's on infrastructure, on education,

1 on health, et cetera, the things that would
2 actually make most working-class people stay
3 here and thrive here. So if you have
4 1 minute 40, please kind of take us through
5 that, particularly about the people who are
6 leaving who are working-class folks or
7 middle-class folks that need the support.

8 MR. KINK: I completely agree,
9 Senator. You know, our statistics show that
10 we have more millionaires now than we did in
11 2009 when we instituted the millionaire's
12 tax -- we have double the number of
13 millionaires, literally. So they're not
14 moving, right?

15 During the period when New York had
16 the allegedly controversial stock transfer
17 tax, we had the money for free CUNY, free
18 SUNY, Mitchell-Lama housing, a public health
19 system that people traveled to New York from
20 around the world to see how well it worked,
21 as opposed to how bad it is. We had public
22 housing that was the envy of the nation that
23 allowed working-class and poor people to grow
24 up in dignity, raise families. All of those

1 things were funded by those taxes on
2 Wall Street and on the very rich.

3 I would argue that the Pataki era,
4 where we cut taxes for rich people, we pushed
5 the costs of government onto the counties and
6 created a rolling property tax crisis, and we
7 slashed the social safety net and we cut our
8 public institutions -- that's what leads to
9 the migration. That's what leads to the
10 anger of the general public about New York
11 being unaffordable.

12 Millionaires and billionaires find
13 New York eminently affordable. They are
14 rich. They have no problems. The people
15 that have high property taxes or high college
16 tuition or can't afford the subway, those
17 people are legitimately angry. And
18 government can take a direct response with
19 tax policy by moving money into public goods
20 that benefit everyone, not just the rich.

21 SENATOR RIVERA: Thank you, Mr. Kink.

22 And thank you, Madam Chair.

23 CHAIRWOMAN KRUEGER: Thank you.

24 CHAIRWOMAN WEINSTEIN: We do have

1 Assemblyman Ra for a question.

2 ASSEMBLYMAN RA: Thank you.

3 And I appreciate your answers. It's
4 an interesting, you know, topic and there's
5 obviously a lot of perspectives as to, you
6 know, how we deal with this issue and what
7 the potential impacts are.

8 I'm just curious, if you wouldn't mind
9 elaborating on any thoughts on a couple of
10 pieces of this. First off that, you know,
11 well, maybe in sheer numbers we have more
12 millionaires, that the share of millionaires
13 in our state has -- relative to millionaires
14 nationally has gone down, versus like a
15 Florida that's gone up, you know, by a
16 significant, you know, double-digit
17 percentage in that time.

18 Any thoughts on that?

19 MR. KINK: Well, you know, Mr. Ra, I
20 think that the question of whether we have
21 enough rich people is, you know, pretty
22 clear. We have a lot. We have more
23 billionaires than any other city in the
24 world. We have more millionaires and

1 billionaires than almost state in the
2 country.

3 So I think the growth and the dynamism
4 of the New York economy at this point is
5 pretty clear, where our economy is bigger
6 than Canada's, it's bigger than
7 South Korea's, it's bigger than Russia.

8 The question is are all the people in
9 New York benefiting from the wealth and the
10 dynamism in the economy. And, you know, I
11 think taxing very wealthy people to invest in
12 public goods that benefit everyone, that grow
13 a middle class, that help poor people and
14 working people gain income and wealth is
15 exactly the right way to do economic
16 development.

17 Our economic development programs over
18 the last several decades have failed. We
19 have low-income people and working-class
20 people that don't feel like they're getting
21 what they need from government. And we have
22 a ton of rich people that are doing just
23 fine. So I think that you can modulate tax
24 policies and investment and budget policies

1 in a way that benefits regular people. What
2 we've been doing literally for the last
3 25 years has been setting our tax and
4 economic policies based on what's good for
5 really rich people. And we need to turn that
6 around.

7 The constituents of yours that are
8 angry about, you know, property taxes or
9 affordability, I entirely sympathize. The
10 way to deal with that is to invest in public
11 goods, to invest in aid to local governments,
12 to make sure that the economic policy of this
13 state is directed towards helping regular
14 people. We don't have an economic policy
15 like that right now, and I think it would be
16 very, very popular if we did have one. Nine
17 out of 10 --

18 ASSEMBLYMAN RA: I don't want to -- I
19 don't want to cut you off, but my time is
20 running out.

21 MR. KINK: Absolutely.

22 ASSEMBLYMAN RA: So I thank you for
23 your answer. My concern being that, you
24 know, we are talking about a very small -- so

1 even if it's not a significant amount that
2 leave, we're talking about significant
3 revenue from a very small number of people
4 where even a small number leaving could have
5 an impact on, you know, what our -- whether
6 those revenues come as expected.

7 But I very much appreciate your
8 thoughts during this hearing.

9 MR. KINK: Thank you.

10 CHAIRWOMAN WEINSTEIN: Thank you.

11 Senate, do you have anyone else?

12 CHAIRWOMAN KRUEGER: I do not see any
13 hands, so let's move along to the next panel.

14 CHAIRWOMAN WEINSTEIN: Okay. So we're
15 going to say thank you, and we're going to
16 move on to Panel B, Empire Center for Public
17 Policy, Edmund McMahon, senior fellow, and
18 The Business Council of New York,
19 Ken Pokalsky, vice president.

20 And we can go in that order --

21 MR. POKALSKY: No, I'll go first.

22 Good afternoon, everyone. We really
23 appreciate the opportunity to appear today.
24 Can you hear me okay?

1 CHAIRWOMAN WEINSTEIN: Yup.

2 MR. POKALSKY: Okay. And really
3 appreciate the time you're dedicating to
4 these hearings. I know it's a long day for
5 everybody.

6 In our limited time for oral comments,
7 I wanted to emphasize several points that we
8 raise in our written testimony.

9 First, we recognize that the consensus
10 revenue forecasting process required by the
11 State Finance Law is still underway; its
12 report is due this Sunday, February 28th. We
13 believe that it's essential that the
14 Legislature assess its current and projected
15 revenues from existing law and expected
16 federal support from the pending federal
17 COVID legislation before committing to any
18 new state-level revenue measures.

19 To this point, based on
20 Comptroller DiNapoli's most recent cash
21 report stating tax and fee revenues have been
22 in recovery -- and at the end of January it
23 actually slightly exceeded revenue for the
24 first 10 months of fiscal 2020 -- we think

1 it's important that we make a careful
2 assessment of what our real needs are and
3 what our revenues will be in the next year
4 before we commit to do tax or fee measures.

5 With specific regard to provisions of
6 the Executive Budget, I'd like to emphasize
7 several points that we made in our written
8 testimony.

9 First, our strong support for the
10 proposed pass-through entity tax, along with
11 our recommended amendments to make that
12 mechanism more effective in securing full
13 federal deductibility of state taxes paid by
14 mostly small and midsized unincorporated
15 businesses.

16 Second, our support for a broader
17 extension of eligibility timetables for
18 brownfield redevelopment tax credits than
19 what is provided for in the Executive Budget.
20 This has been a very successful program for
21 bringing properties back to productive use,
22 especially in upstate urban areas, and we
23 think it should be extended.

24 Third, our opposition to amendments to

1 the Tax Tribunal appeals process that will
2 adversely impact small businesses and
3 individual taxpayers in particular.

4 And finally, our concerns about the
5 adverse impacts that the extreme proposals
6 for new and increased taxes being advanced by
7 the Invest in New York {sic} coalition would
8 have on in-state employers and residents.

9 I expect -- I think from today's
10 hearing we know that versions of those
11 proposals, along with others from the
12 literally hundreds of tax bills already
13 introduced, are being advocated for inclusion
14 in one-house budget bills. We believe the
15 need for significant new revenue measures to
16 support the fiscal 2022 state budget is still
17 unclear. But if there is an agreement that
18 additional state revenues are needed, we look
19 forward to continuing discussions with
20 members of the Legislature -- and, to
21 Senator Krueger's earlier point, what revenue
22 proposals -- you know, what the revenue
23 potentials would be as well as what their
24 economic consequences would be as well.

1 We certainly look forward to
2 continuing this conversation with members of
3 these committees as well as other members of
4 the Senate and Assembly as you continue to
5 work through the Executive Budget and your
6 own revenue proposals.

7 So again, thanks for having us today.
8 We look forward to your questions.

9 CHAIRWOMAN WEINSTEIN: E.J.?

10 MR. McMAHON: Thank you very much.
11 Can I be heard?

12 CHAIRWOMAN KRUEGER: Yes.

13 MR. McMAHON: Thank you very much,
14 Senator Krueger, Assemblywoman Weinstein, and
15 other members of the joint committee, thanks
16 for having me.

17 I'll begin by talking about -- just
18 framing this, as the pandemic has been this
19 incredible disruption -- I know this is said
20 constantly, but I don't think it can be
21 stressed enough. I think it's a much bigger,
22 a much more severe potentially long-lasting
23 in its aftereffects disruption than 9/11 or
24 the Great Recession or previous events since

1 the Great Depression. And that's why so much
2 caution has to be taken in the approach to
3 the next budget and its tax policy.

4 Even though the COVID outbreak was
5 concentrated here, our tax revenues have
6 responded -- have rebounded more strongly
7 than the Governor projected and more strongly
8 than other major states because we're heavily
9 dependent on an income tax and heavily
10 dependent on income tax paid by high earners.
11 In fact we do tax the rich, quote, unquote.
12 That's why estimated payments in January
13 alone were a billion dollars ahead of last
14 year's amount.

15 The question now is there's a lot of
16 people on the fence about their continued
17 presence in New York. You don't have to rely
18 on me; there's a lot of excellent journalism
19 on this going back to the spring when the
20 Times was tracing movements of people out of
21 neighborhoods, to business coverage now of
22 what's going on with finance firms and real
23 estate and landlords in the commercial
24 business district. There's a lot of firms

1 and employers on the fence about their
2 continued presence. So the point is, don't
3 push more people away.

4 I've got three recommendations --
5 actually four -- that relate to specific
6 budget proposals. One is don't do the
7 Governor's surtax. His own updated receipts
8 estimate indicates that it's not needed.

9 Second, in order to ensure my
10 popularity across the board on this panel,
11 postpone the middle-class tax cut not for one
12 year but for up to four more years.

13 Third, repeal the film tax credit.

14 And then a fourth idea which I floated
15 by you last year is repeal the sales tax
16 exemption on small clothing purchases and use
17 at least half the revenue instead to convert
18 it into a very significant increase in the
19 child credit, which would do much more to
20 help the families with children than the
21 sales tax, in an awkward and inefficient way,
22 was designed to help.

23 Beyond that, I have data in my
24 presentation that I won't detail now that

1 contradicts some of the information that was
2 presented to you in the previous panel, with
3 which I strongly disagree. And I would
4 suggest that we are not -- this is not a
5 typical situation, this is completely
6 unprecedented in almost a century, and that
7 you have to tread very carefully around this.

8 And that, in closing, I haven't
9 specifically gone point by point down the
10 agenda that's being discussed in the
11 background here today. I would point out
12 this is not our usual discussion of how to
13 increase taxes or raise revenues with the
14 least possible disruption, as Senator Krueger
15 said, which I agree with. This is about
16 enacting a very radical package to
17 dramatically expand government spending,
18 which is far beyond what the state now needs.

19 So I'll close there and be happy to
20 answer any questions panelists have.

21 CHAIRWOMAN KRUEGER: I see a couple of
22 hands, Helene.

23 CHAIRWOMAN WEINSTEIN: Yup. So we'll
24 go to Chris Tague, three minutes.

1 ASSEMBLYMAN TAGUE: Hello,
2 Mr. McMahon. Greetings from your old
3 hometown of Schoharie.

4 MR. McMAHON: Thank you.

5 ASSEMBLYMAN TAGUE: It's good to see
6 you.

7 Being I only have three minutes, I'm
8 going to just ask a couple of brief questions
9 and let you do the talking.

10 So in your opinion, sir -- what is
11 your opinion with all the taxing of the rich
12 or the wealthy, as we've heard today and
13 we've been hearing from -- you know, in the
14 last year?

15 And secondly, what suggestions would
16 you give to us as lawmakers as we go forward
17 in the budget process, what suggestions on
18 what tax rates we use for different
19 individuals? And what changes could we make
20 in the budget, you know, to help New Yorkers?
21 Keeping in mind, which I don't think's been
22 discussed today, is that before this awful
23 COVID crisis, New York State was already
24 facing a 5-billion-plus-dollar deficit before

1 we even got to these budget discussions.

2 And it's always a pleasure talking to
3 you. Thank you, E.J.

4 MR. McMAHON: Thank you.

5 In general, on the package -- I think
6 it's called Invest in Our Future package, and
7 there's variants on it, including what was
8 discussed by some people in the previous
9 panel. I think what we're looking at here is
10 an agenda that was developed primarily by
11 Senator Sanders and Senator Warren and their
12 supporters and promoted as a federal tax
13 policy, a broad policy designed to address
14 inequality of income on the federal level.
15 That's what all of this really springs from,
16 beyond the usual attempts to raise New York's
17 marginal rate higher on the highest incomes.

18 And I think what we're not recognizing
19 here is that this is a state. And I think
20 that this whole approach treats New York as
21 if it was a sovereign nation with a closed
22 economy that could tax with impunity.

23 Now, ultimately you can either believe
24 that or you won't. I think the Legislature

1 needs to be very cautious in terms of the
2 counterproductive and unintended consequences
3 of treating New York as if it was a sovereign
4 nation -- in fact, as some of this analysis
5 behind these proposals goes, as if it were
6 Canada.

7 You can't tax like Canada. We're
8 being presented -- you're being presented
9 with a plan that proposes raising taxes
10 punitively by \$50 billion -- five, zero,
11 billion with a B. That's beyond -- you don't
12 need \$50 billion. That's about expanding the
13 size of government by orders of magnitude
14 beyond what you spend now in one of the
15 heaviest-spending states in the nation. So I
16 don't -- I think it's entirely unsuited to
17 these times when everything is very much up
18 in the air.

19 I also think, again -- the state and
20 local tax deduction was mentioned earlier.
21 And with respect, Senator Krueger, I think
22 maybe you're thinking of somebody else. I
23 would not say that it doesn't affect the
24 ultrawealthy, my point is it only -- mainly

1 affects the ultrawealthy. The ultrawealthy
2 are beyond AMT range. And actually the
3 ultrawealthy in New York are really the
4 people who are paying higher net taxes
5 because of the SALT -- the loss of the SALT
6 deduction. It's the first time in the
7 history, the more than a century history of
8 the New York State income tax that it has not
9 been fully deductible -- nor the city income
10 tax, over 55 years -- from the federal income
11 tax.

12 The net price, tax price of New York
13 has gone up very significantly. All
14 comparisons to the past go out the window
15 just because of that. And basically the
16 pandemic is another change. So that's my
17 reaction to that.

18 CHAIRWOMAN KRUEGER: E.J., I know it's
19 not my turn, but the clock's over. I thought
20 you showed me charts that the impact was
21 people 400,000 to 500,000 a year and that it
22 really wasn't an impact on higher income than
23 that.

24 MR. McMAHON: I actually meant -- I

1 think what we talked about when we had a
2 briefing on this a few years ago was that --
3 was that in -- that the people in the sweet
4 spot, if you will call it, of affluent
5 households making like 200 to 800, were
6 primarily AMT payers who were being saved
7 from a big SALT impact because the AMT has
8 been rolled back very far.

9 But I was -- I meant that group.

10 CHAIRWOMAN KRUEGER: Okay.

11 MR. McMAHON: And that for instance,
12 by dint of his own publicized tax return, the
13 Governor is in that group, and he actually
14 got a tax cut, based on his public tax
15 return, from the new federal tax law.

16 It's -- the people at the top are
17 beyond, pretty much beyond AMT territory, and
18 they are paying more in their marginal rate,
19 which is what they pay attention to. The
20 combined all-in marginal rate, even with a
21 slight federal rate cut since 2017 on those
22 people, is higher than it was. And that's
23 before the pandemic. So that's -- that was
24 the point I was making.

1 CHAIRWOMAN KRUEGER: Got it. Thanks
2 for the clarification on that. And Helene --
3 (Overtalk.)

4 CHAIRWOMAN WEINSTEIN: We don't have
5 any other Assemblymembers, so you can --

6 CHAIRWOMAN KRUEGER: Oh, we have a
7 bunch of Senators, so --

8 CHAIRWOMAN WEINSTEIN: Unless somebody
9 raises their hand on my side --

10 (Overtalk.)

11 CHAIRWOMAN KRUEGER: Okay. Senator
12 John Liu.

13 I see you, Brian Benjamin. I'll get
14 to you next. Your hand wasn't up yet.

15 SENATOR LIU: Thank you very much,
16 Madam Chair.

17 Thank you, E.J., for your -- well, for
18 your comments, I guess.

19 (Laughter.)

20 SENATOR LIU: You know, let me just --
21 I just have to comment that -- a little bit
22 about what you said.

23 There is not a single one of us here
24 who doesn't understand that we are one state

1 and we are not a sovereign nation. So I just
2 want to make sure that you understand that we
3 understand that and we don't need lecturing
4 on that point. We understand that this is a
5 state.

6 But you probably understand also that
7 in this country, wealth disparity and income
8 inequality has been exacerbated in recent
9 decades. It's gotten worse. And it is much
10 worse and has gotten worse faster in the
11 State of New York. So there's something that
12 needs to be done at the federal level, but
13 there are also things that need to be done in
14 New York State. Because we're not the
15 national average in level or rate.

16 Now, the Invest in Our New York
17 package of revenue raisers -- you know, my
18 sense is that it's probably not \$50 billion,
19 but it does raise a significant amount of
20 money so that we can make our state even
21 stronger. Education, healthcare, housing,
22 these are the main things that people see in
23 the strength of New York.

24 My specific question for you would be

1 on just one of the aspects of tax here. I
2 had asked the commissioner earlier, the Tax
3 and Finance commissioner earlier what the
4 effect of increasing corporate income taxes
5 would be in the State of New York. What do
6 you think would happen if we raised corporate
7 income tax rates?

8 MR. McMAHON: Well, again, I don't
9 think it's a good time to raise any
10 broad-based tax rates --

11 SENATOR LIU: Well, there's never been
12 a time that you were in favor of increasing
13 taxes, right?

14 MR. McMAHON: Well, I think that --
15 well, it would depend on how severe the
16 situation was, actually.

17 SENATOR LIU: Okay, so what would be
18 the impact of increasing --

19 MR. McMAHON: But I -- but I -- but I
20 think the effect would depend on what the
21 increase was and whether it was targeted or
22 broad-based.

23 SENATOR LIU: A significant increase
24 in corporate income tax rates in New York

1 State.

2 MR. McMAHON: I think a significant
3 increase in corporate tax rates would not be
4 favorable to hiring and investment in
5 New York by firms subject to the corporate
6 tax. I don't think there's any question of
7 that.

8 SENATOR LIU: Well, according to the
9 commissioner, based on his initial
10 response -- and he said he was going to look
11 into it further -- it didn't matter if the
12 company was located in New York or not, that
13 they'd be paying a corporate income tax rate
14 based on their sales volume in the State of
15 New York. And I assume that every company in
16 the world, certainly in this country, would
17 want to get a lot of sales volume from
18 New Yorkers.

19 MR. McMAHON: Well, you could catch
20 them up that way, sure. I mean, if you
21 wanted to look at it that way.

22 The proposal I'm familiar with is a
23 proposal -- is one of several proposals
24 designed to, in effect, in the description of

1 its sponsors, to correct for what's
2 considered too big a federal tax cut. I
3 believe I've interpreted that correctly. And
4 it's very, very big. I don't know if you're
5 talking about that one. That's a very
6 large --

7 SENATOR LIU: No, I'm talking
8 specifically about corporate income tax rate.
9 It's a pretty straightforward --

10 MR. McMAHON: Okay. Well, there is
11 a --

12 MR. POKALSKY: Could I offer an
13 answer, Senator? Because we follow the
14 corporate franchise tax pretty closely.

15 And I'd say two things. One is the
16 Invest in New York proposal would be more
17 than a tripling of our current corporate
18 franchise tax rates, to a level seen in no
19 other state.

20 And yes, if you're a
21 non-New York-based company who has an
22 economic nexus here, you'll pay a state
23 corporate franchise tax based on your sales
24 volume here.

1 But the other group of companies it
2 will affect are New York State-based
3 corporations who are primarily located here
4 and whose prime market is here. And since
5 you can't discriminate based on, you know,
6 where the taxpayer is, that would have an
7 outsized effect on our home industry.

8 So we would have very significant
9 concerns. That's taking, you know, a
10 substantial amount of money out of New York
11 State-domiciled corporations. So we do think
12 that would have an adverse effect on New York
13 State business and New York State's --

14 SENATOR LIU: Well, you're arguing
15 that any kind of tax would have an adverse
16 effect. The question is --

17 MR. POKALSKY: Not any kind of tax.
18 We're talking about tripling the existing
19 tax.

20 SENATOR LIU: -- whether these
21 companies would move out of state and whether
22 it would affect the employment base. And it
23 doesn't seem like you've responded that it
24 would.

1 MR. McMAHON: Well, I would say it
2 would. At the rate proposed in the Invest in
3 Our Future plan, that's a very big -- if
4 you're referring to that, Senator, that's a
5 really big -- like all of the increases in
6 that package --

7 SENATOR LIU: Yes, it's a big increase
8 that shocks your sensibilities. What if
9 there's only --

10 MR. McMAHON: Well, it does.

11 SENATOR LIU: -- a 15 percent increase
12 in the rate, would that be more reasonable --

13 MR. McMAHON: Never in the state's
14 history has anything like that been done, or
15 in any state's history. I would think that
16 that would worry you.

17 And by the way, let me interject.
18 When I talked about people assuming that
19 we -- bringing down a sovereign-level plan to
20 a state, I realize, and I apologize if you
21 took it the wrong way -- if anybody
22 understands we're talking about a state, you
23 Assemblymen and Senators understand that.

24 The advocates, many of them, clearly

1 don't understand that, and some of their
2 material makes it absolutely clear they
3 don't. They think we can actually posture
4 and position ourselves like a sovereign
5 nation. That's been made clear. So
6 that's -- that is -- some of the fervor
7 behind this actually comes from people who
8 think that. That's what I meant.

9 So I want to clear that up and make
10 sure I totally respect -- you all know
11 exactly --

12 SENATOR LIU: Well, you are speaking
13 to legislators and not advocates today.

14 MR. McMAHON: Right, I understand.
15 Well, but I'm talking to people who sponsored
16 that package also, so I -- some of you, I
17 believe.

18 But that plan and several other plans
19 follow a model that started with the
20 so-called carried-interest proposal which the
21 Governor unfortunately or I think mistakenly
22 advanced for several years, which said
23 that -- recognize that New York taxes capital
24 gains at the same rate as normal income, as

1 you know. It does not favor one form of
2 income over another. And that proposal was
3 designed to essentially double the income tax
4 rate -- or more -- on income classified as
5 carried interest in order to get at those
6 people who get it because the federal
7 government should have been taxing them more.

8 And I think that's a convoluted and
9 ultimately counterproductive approach. And
10 when combined with all of the other things in
11 the package, I think it really is an
12 economically devastating approach.

13 Ultimately a lot of this, in terms of
14 what policies need to be enacted, in terms of
15 the nature of inequality of income and what
16 government can and should do about inequality
17 or income inequality at a federal level or a
18 state level, that's a broader discussion that
19 could go on all day. There's a lot of
20 nuances to that.

21 The question here is beyond --

22 SENATOR LIU: Would you agree that
23 marginal tax rates, federal and state
24 combined, have decreased in recent decades

1 compared to what they were like, say, 30 or
2 40 years ago?

3 MR. McMAHON: Of course they have.
4 But in the middle of that --

5 SENATOR LIU: But in the same period,
6 income inequality and wealth disparity has
7 gone up significantly. It's almost at a very
8 precise correlation.

9 MR. McMAHON: Would you agree that in
10 1986 we had the most significant federal tax
11 reform of the century, which significantly
12 broadened the income tax base and thus --

13 SENATOR LIU: Well, those were the
14 Reagan tax cuts that we then paid for dearly.

15 MR. McMAHON: No. No, that was a
16 bipartisan tax -- you're thinking of the 1981
17 Reagan tax cut. In 1986 --

18 CHAIRWOMAN KRUEGER: I have to cut off
19 this debate, as much as I'm personally
20 enjoying it.

21 MR. McMAHON: Okay. All right.

22 CHAIRWOMAN KRUEGER: Because it has
23 been pointed out that we are way past any
24 clock --

1 MR. McMAHON: Okay. Sorry.

2 SENATOR LIU: We appreciate you being
3 here, both of you.

4 CHAIRWOMAN KRUEGER: But I would love
5 to join you in this -- after this -- after
6 the hearing.

7 I'm sorry, Helene, back to you. Or do
8 I just go on with more Senators? Have you
9 got any more Assemblymembers?

10 CHAIRWOMAN WEINSTEIN: No, it's just
11 your Senators.

12 CHAIRWOMAN KRUEGER: Okay. I'm guilty
13 as charged for letting John Liu go on too
14 long.

15 Brian Benjamin.

16 SENATOR BENJAMIN: Thank you,
17 Madam Chair. I'm going to try to be more
18 reasonable in the time.

19 Let me start, though, with a question
20 for Ken. Ken, you mentioned you had some
21 revisions to the pass-through entity tax that
22 you thought were of concern. Can you --

23 MR. POKALSKY: Yes, sir.

24 SENATOR BENJAMIN: -- share what that

1 is and what your concerns are?

2 MR. POKALSKY: There's three. And
3 they're in our written testimony.

4 One, the Governor's bill limits
5 participation to partnerships and sub-S
6 corporations whose partners or shareholders
7 are natural persons. And we know corporate
8 structures get more complicated than that.
9 Since it's an opt-in, we think any sub-S or
10 partnership should be able to opt in. Other
11 states have done it that way. It's a little
12 bit of extra complexity for the state, but we
13 think that's manageable and other states have
14 proven it.

15 Second, it allows -- it applies the
16 new entity level tax to a fairly limited
17 share or category of the sub-S or
18 partnership's income. And we're still
19 looking and evaluating the IRS guidance on
20 this, but we think that was in response to
21 what the department thought the IRS was going
22 to allow to be covered by these mechanisms.
23 We think it's too narrow. We think it can be
24 broadened.

1 And third, the way the bill's
2 structured is you would have to make your
3 election 15 months before your tax filings
4 are due. Other states, including some
5 recently adopted states who have already gone
6 this route, have allowed the taxpayer to make
7 that election on their first timely filing.
8 We think that gives the taxpayer a little bit
9 more flexibility.

10 And frankly, I don't know that there's
11 a particularly strong reason why the
12 department would need the election made so
13 far in advance.

14 We think it's a good approach to
15 provide relief to multi small or midsized
16 businesses. It's revenue-neutral to the
17 state. In fact, generally a little bit of
18 money to the state. And it's an election.
19 So it doesn't work for every business, but
20 for those for whom it would be beneficial, it
21 allows them to opt in. We think it should --
22 it deserves passage.

23 But happy to share the -- I'll share
24 the actual language we're offering offline.

1 SENATOR BENJAMIN: Yeah, let's do
2 that. I want to know more about that.

3 MR. POKALSKY: Thanks.

4 SENATOR BENJAMIN: E.J., I wish I had
5 30 minutes to go -- to talk to you, but I'm
6 just going to limit it to one question,
7 which -- I want to make sure I heard you
8 correctly.

9 So just so I'm clear, you said that we
10 should not do a corporate surcharge on those
11 making over 5 million a year of any kind.

12 MR. McMAHON: Right.

13 SENATOR BENJAMIN: But you did say in
14 exchange -- instead of that, what we should
15 do is delay the middle-class tax cut for
16 five years.

17 And just so I'm clear, in some
18 language -- you know, some people call
19 delaying of tax cuts a tax increase. Do you
20 subscribe to that notion? And if so, are you
21 saying that we should not increase taxes on
22 those making 5 million or more, but we should
23 increase taxes on those making between 20,000
24 and 300,000?

1 MR. McMAHON: It would not increase
2 taxes on people making 25,000 and 300,000.
3 It is a delay of a small --

4 SENATOR BENJAMIN: Delaying the tax
5 cut.

6 MR. McMAHON: It's a -- the tax cut is
7 actually worth a few dollars a week over a
8 total of four years to people in median
9 income brackets.

10 And to answer the next question, I
11 consider a median family income in much of
12 the state is between \$65,000 and \$85,000, and
13 in the lower and the New York City suburbs
14 it's in the low hundreds.

15 This is a -- this is a very drawn-out
16 tax cut that is -- in the rates and different
17 brackets that is delivering small savings to
18 a very large number of people over a long
19 period of time. That's why it has the cost
20 it has.

21 And what I do recommend in writing in
22 my testimony is that during a period of a
23 suspension -- because you can't -- you should
24 not be doing a tax cut, I would suggest, in a

1 period where you have a really severe budget
2 gap that you're going to need to close once
3 you're -- especially once the federal aid
4 you're about to get expires. And that this
5 is a way of building up a reserve to help
6 cushion the transition after the federal aid
7 disappears.

8 But I also recommend that you
9 inflation-index the brackets that were in
10 that law so that during the period of the
11 suspension it will pick up with the same
12 value.

13 Now, I think that it's actually in the
14 spirit of the approach the chairman described
15 as the least disruptive way to raise revenue.
16 It is by far the least disruptive way to
17 raise -- temporarily raise a couple of
18 billion dollars in revenues over the next few
19 years. It's a very small savings for the
20 affected people, especially in the five
21 figures range below \$100,000, and that
22 therefore it is the least disruptive way to
23 raise revenue during a period when the last
24 thing you want is disruption. But nobody

1 will pay more if you do that.

2 SENATOR BENJAMIN: Just -- this is my
3 last question, Liz. I mean, because one of
4 the things that we tend to focus on we tend
5 to understand as the impact, right, so --

6 MR. McMAHON: Right.

7 SENATOR BENJAMIN: -- the impact of
8 what you call smaller numbers on those who
9 make less is probably more severe than the
10 impact of bigger numbers on those who make a
11 whole lot. Right? Just in terms of the
12 impact to your lifestyle, et cetera.

13 Do you accept that premise?

14 MR. McMAHON: Well, when we're
15 talking, for a family making \$62,000 or so,
16 of \$94 four years from now, I would say
17 that's not a big impact.

18 MR. POKALSKY: Not that we're -- not
19 that we're supporting your proposal, but we
20 ran some numbers the other day just because I
21 was curious as to what the effect was. And I
22 believe that at about \$120,000 in taxable
23 income, the change in Year 1 was \$120. At
24 lower incomes it's obviously quite a bit

1 lower than that.

2 MR. McMAHON: The figures we're
3 talking about, delaying a tax -- in
4 percentage terms, the changes in taxes paid
5 by people targeted by the remaining years of
6 the middle-class tax cut are not as large,
7 nearly as large as what's being proposed in
8 the very top income ranges.

9 And again, to answer some questions
10 earlier about progressivity, some charts are
11 included with my written testimony. The tax
12 code --

13 SENATOR BENJAMIN: I'll take a look at
14 that.

15 MR. McMAHON: It's very steeply
16 progressive, our tax code. The average
17 taxpayer --

18 CHAIRWOMAN KRUEGER: You know what --

19 MR. McMAHON: Sorry.

20 CHAIRWOMAN KRUEGER: No, you know
21 what? Now I'm guilty of letting you and
22 Brian Benjamin --

23 MR. McMAHON: Sorry.

24 CHAIRWOMAN KRUEGER: -- outrank

1 John Liu in the time issues.

2 MR. McMAHON: Sorry.

3 CHAIRWOMAN KRUEGER: Which makes Brian
4 happy. But now I'm going to jump to Tom --

5 SENATOR BENJAMIN: Good thing I'm the
6 chair, so I got a little extra leeway. Yes,
7 I agree, take the field back, Madam Chair.

8 MR. McMAHON: Sorry.

9 CHAIRWOMAN KRUEGER: Yeah, I covered
10 my problems.

11 And now we're going to let Tom O'Mara
12 wax poetic with you for three minutes.

13 MR. McMAHON: Okay.

14 SENATOR O'MARA: I'd yield my time to
15 make up the end of that other conversation,
16 but no, I only have three minutes. But it's
17 all very interesting, and I --

18 CHAIRWOMAN KRUEGER: We will all look
19 at your charts, E.J.

20 SENATOR O'MARA: E.J., if you could
21 discuss for a moment the -- I think there's a
22 common perception out there that the wealthy
23 don't pay their fair share, that they pay a
24 lower rate overall than middle-class

1 taxpayers. So if you can talk about that,
2 that -- paying their fair share or what their
3 rate is on that higher income.

4 And also, who stands to gain the most
5 if we were to reinstate the SALT deduction?
6 What range of taxpayers would benefit the
7 most from that?

8 MR. McMAHON: Well, the answer to the
9 last question, that would be the very
10 highest -- the multimillionaire earners would
11 gain the most from reinstating the full SALT
12 deduction.

13 Again, as I was saying -- and there's
14 charts in my attachments which are based on
15 State Tax Department data -- the lowest four
16 income quintiles, the lowest-earning
17 40 percent of New York resident taxpayers
18 basically don't pay, collectively, any state
19 tax. They collectively get refunds.

20 The figures are very low until you get
21 to the 80th -- up into the high part, near
22 the 80th and above the 80th percentile, and
23 the top 1 percent of state residents pay
24 nearly 44 percent, the top-earning residents

1 pay 44 percent of the state income tax. The
2 next -- the 10 percent right below them, they
3 pay a very high share as well. And there is
4 no modeling that's ever been done of state
5 income taxes that doesn't find New York's
6 among the most progressive in the country.

7 Another factor, we have a very
8 favorable treatment of low-income payers in
9 New York State. This was contrary to the
10 revisionist history you heard earlier, and I
11 have to call it that. This was because of
12 policies enacted at the end of the
13 Mario Cuomo administration and through the
14 Pataki administration. That tax cut expanded
15 significantly on an earned income tax credit
16 that benefits the working poor. That was
17 initiated at a low level under Mario Cuomo.
18 It was repeatedly increased under Pataki.

19 Pataki's tax cut cut taxes twice as
20 much for the median income as at the top. It
21 actually brought about a further shift of the
22 remaining tax burden to high income. It
23 actually shifted more of the burden from the
24 middle to the top. Our reliance on the top

1 1 percent, by all the data that the
2 Budget Division has produced over the years,
3 increased after the Pataki tax cut was
4 passed.

5 So again, if you look at comparisons,
6 they state our treatment of people making
7 below median income is the most favorable or
8 among the most favorable of any state.
9 That's just the fact. So -- and that's good.
10 It's good policy. It's policy that I wrote
11 about and cheered on at the time in different
12 roles I was occupied in.

13 SENATOR O'MARA: Do I get any more
14 time?

15 CHAIRWOMAN KRUEGER: (Laughing.)

16 SENATOR O'MARA: One more question?

17 CHAIRWOMAN KRUEGER: One more
18 question, quick.

19 SENATOR O'MARA: One more question.

20 E.J., if you have figures for the
21 high-wealth tax proposal that's out there,
22 for people over \$5 million, for every one of
23 those taxpayers leaving the state and us
24 losing that income tax, how many median

1 taxpaying households would it take to make up
2 that loss?

3 MR. McMAHON: Well, keeping in mind
4 that the median household is at a different
5 place in different parts of the state. For
6 instance, in your district it would probably
7 be the \$60,000 to \$65,000 range.

8 People making between \$5 million and
9 \$10 million a year, they pay an average of
10 \$544,000 each, on average, in state income
11 tax. That's the same amount paid by
12 202 households, median-income households.
13 When you get to the \$10 million and above
14 range -- and that's as high as the data
15 available go -- they pay an average of
16 \$2.5 million each in state income tax.
17 That's as much income tax as is paid by
18 940 households making between 60 and 65.

19 If you lost just 100 of the roughly I
20 think 2700 households in that bracket, that's
21 as much in taxes paid as more than
22 90,000 households making between \$60,000 and
23 \$65,000. It's a lot of money.

24 And no -- anticipating a question just

1 quickly -- the income share is not as much
2 outsized as the tax share. It's big, but
3 it's not that -- it doesn't match the tax
4 share.

5 CHAIRWOMAN KRUEGER: Okay, I've been
6 fired now as a joint cochair because I let
7 this panel get out of control.

8 I'm not using up my time, I'm not
9 going to question. You guys got my time.
10 But we do have Julia Salazar to close.

11 SENATOR SALAZAR: Thank you, Chair.

12 I have to quickly follow up on a
13 comment that's been made in your testimony in
14 which you claimed as a matter of fact that
15 the package of legislation that's been
16 proposed was designed to emulate
17 federal-level proposals by Senator Sanders
18 and Senator Warren.

19 I'm a lead sponsor of one of the bills
20 in this legislative package and have been
21 working with the other lead sponsors, and I
22 can tell you firsthand that that statement is
23 false.

24 And I just want to remind every

1 witness who's testifying today that while I
2 do not expect us to agree about proposed
3 solutions to what is undoubtedly an economic
4 crisis and a massive budget deficit, I do,
5 however, expect your testimony to be
6 truthful. And I know that the chairs expect
7 your testimony to be truthful and to be
8 accurate and that your testimony in these
9 hearings is public record.

10 You mentioned in your testimony that
11 you believe the need to raise state revenue
12 at all in the upcoming budget is still
13 unclear. What conditions would possibly make
14 the need to raise state tax revenues clearer,
15 in your opinion?

16 MR. POKALSKY: I know I said that, so
17 I don't know if you were addressing it to me,
18 but thanks for the question, Senator.

19 I mean, by the end of this week there
20 will be -- the schedule is to have a
21 consensus on revenues. And, you know, we
22 don't have the inside information that, you
23 know, Senate Finance might be privy to, but
24 looking at the published reports from the

1 Comptroller's office, I think it's pretty
2 remarkable how resilient state revenues have
3 been.

4 If those trends continue as, you know,
5 additional venues -- particularly in the
6 city -- reopen, we see, you know, more return
7 of office workers to the city -- I mean, I
8 think all indications are we're going to see
9 an even sharper rebound of state revenues
10 going into next year.

11 And couple that -- so we'll have -- at
12 least we think we'll have an agreement on
13 what the expected revenues will be shortly.
14 In addition, Congress seems intent to pass
15 the Biden COVID package by the 14th of March.
16 My understanding is that the amounts and
17 distribution of that are pretty well locked
18 in. It's either going to happen or not, but
19 the numbers are known.

20 I think, looking at those combined
21 resources together, I think it -- you know,
22 what we would like to respond to is given
23 what we know and what we expect in revenues,
24 what more, if anything, is the Legislature

1 and the Governor, you know, interested in
2 proposing to spend. I think from there we
3 can talk about, you know, what's the best --
4 how you can do that, again, with the least
5 amount of unintended collateral damage.

6 MR. McMAHON: May I say something?
7 I'm sorry.

8 Senator Salazar, with respect, you've
9 impugned my honesty. And I'm sorry, but
10 you're wrong. If your -- if the plan you're
11 supporting and other elements of it do not
12 resemble closely positions advocated at the
13 federal level, principally by Senator Sanders
14 and Senator Warren, who have a right to
15 advocate those positions, they're the primary
16 proponents of such positions. If they were
17 not inspired directly or even indirectly by
18 those proposals, there's a remarkable
19 resemblance.

20 And I'm not going to -- that's not
21 untrue to observe. And so -- and I don't see
22 why -- I'm surprised you even mind the
23 connection. Why wouldn't you want to be --
24 have your proposals compared to those

1 proposals? They -- I've been reading the
2 material very closely from that camp for
3 years, and it's very similar -- the rhetoric
4 and the goal and the need to address income
5 inequality that's stressed in all of those
6 proposals, it's virtually identical. I'm
7 surprised you even disagree.

8 So that's my answer to that.

9 SENATOR SALAZAR: So just to -- if I
10 may, Chairs, just very briefly. The point is
11 rather a disagreement in the fact of how --
12 of what inspired the proposals and the
13 process of drafting the legislation.

14 But additionally, I do think it's
15 important that we distinguish between the
16 nature of a federal proposal based on the law
17 and what is possible, a federal proposal
18 versus a state proposal. So to me that was
19 the significance and the difference.

20 MR. McMAHON: I agree, and what you've
21 proposed is many, many multiples of the
22 largest tax increases that have ever been
23 proposed --

24 CHAIRWOMAN WEINSTEIN: Thank --

1 thank --

2 MR. McMAHON: -- in the history of
3 New York State.

4 CHAIRWOMAN WEINSTEIN: Thank you.

5 CHAIRWOMAN KRUEGER: Helene.

6 CHAIRWOMAN WEINSTEIN: No, I just was
7 thinking that we've had enough back-and-forth
8 with some of our colleagues.

9 MR. McMAHON: Yes.

10 CHAIRWOMAN WEINSTEIN: Perhaps we
11 should move on to the next panel.

12 CHAIRWOMAN KRUEGER: Which is about
13 weed. It's much more relaxing than tax
14 policy.

15 (Laughter.)

16 MR. McMAHON: Okay.

17 MR. POKALSKY: Thanks for your time.

18 MR. McMAHON: Thanks very much.

19 CHAIRWOMAN KRUEGER: Thank you,
20 everyone.

21 CHAIRWOMAN WEINSTEIN: Thank you both
22 for being here.

23 So Panel C, New York Cannabis Growers
24 and Processors Association, Allan Gandelman;

1 New York Medical Cannabis Industry
2 Association, Ms. Abebe -- I'm sorry, you'll
3 have to pronounce your first name for me, I
4 didn't want to mess it up -- and SAM Action,
5 Inc., Kevin Sabet.

6 And if we can go in that order, that
7 would be great.

8 MR. GANDELMAN: Hello, my name is
9 Allan Gandelman, and I'm the president of
10 Head & Heal, a New York organic vegetable
11 farm, hemp grower and processor. I'm also
12 the president of the New York Cannabis
13 Growers and Processors Association. The
14 NYCGPA represents New York businesses that
15 produce high-quality hemp and cannabis
16 products.

17 We deeply appreciate the possibilities
18 offered in the MRTA. New York will need to
19 balance issues involving taxes, licensing and
20 speed to market. The MRTA does an excellent
21 job allowing for social consumption, cannabis
22 home grow, microbusinesses, home delivery,
23 and funding for social equity applicants.
24 These policies should be, without question,

1 integrated into any final legislation enacted
2 by the state.

3 Our tax analysis of the MRTA and the
4 CRTA shows that the CRTA has potential to
5 harm smaller businesses. We have seen
6 repeatedly that fixed rates in the mature
7 market benefit large companies that can
8 operate at a smaller profit margin. The
9 effective tax rate in the CRTA, depending on
10 the product, is between 30 and 50 percent.
11 This will drive consumers to the illicit
12 market or across state lines. Massachusetts
13 is more competitive, currently, with a
14 20 percent rate.

15 The MRTA provides a better alternative
16 with a percent-based tax on real market
17 values. The 18 percent tax it creates will
18 help develop a competitive landscape where
19 smaller businesses can thrive.

20 For distribution, having a required
21 distributor layer in the supply chain will
22 have negative unintended consequences that
23 will harm small entrepreneurs. Forcing
24 cultivators or manufacturers to go through

1 large distributors in getting their products
2 to market will squeeze profits from small
3 producers and prevent retailers from dealing
4 directly with the source.

5 In terms of licensing, from
6 cultivation through dispensaries, that should
7 take top priority. New York will need at
8 least 5 million square feet of cultivation
9 capacity. We have an opportunity to have
10 hundreds of farmers create enough supply to
11 address the existing market, which will need
12 2,000 dispensaries across the state. This
13 estimate is modest. For comparison, New York
14 currently has 3,300 liquor stores and a lot
15 more than that when you consider places
16 selling beer.

17 Speed to licensing is also extremely
18 important. We have seen several states
19 struggling with getting their licenses into
20 the hands of small businesses, while states
21 like Arizona stood up their adult-use market
22 within three months by leveraging existing
23 infrastructure.

24 New York has a key advantage that

1 other states did not: Existing hemp farmers
2 and processors ready to start in the
3 adult-use industry from Day One. Amongst us
4 we have a current capacity to meet the needs
5 of New York by January 1, 2022, and provide
6 supply to all New York retailers.

7 To address these issues, we suggest
8 legislatively mandated deadlines putting a
9 time frame on licensing for all classes. As
10 we have seen in both the medical marijuana
11 and the hemp programs, the slow rollout of
12 regulations negatively impacted both patients
13 and businesses. For reference, after a year
14 and a billion dollars in sales, Illinois
15 still does not have one Black-owned cannabis
16 dispensary.

17 We cannot allow this kind of
18 regulatory oversight to happen here. We
19 believe a legislative mandate on these issues
20 will avoid problems that other states have
21 experienced, especially related to small
22 businesses and social equity applicants.

23 CHAIRWOMAN WEINSTEIN: Next, New York
24 Medical Cannabis Industry Association.

1 Can you just pronounce your first name
2 for me so I'll know for the next time?

3 MS. ABEBE: Sure can. It's Ngiste,
4 rhymes with biggest. So that's Ngiste Abebe.

5 So good afternoon, everyone. I am the
6 director of public policy at Columbia Care, a
7 New York-headquartered and licensed medical
8 cannabis operator.

9 I also serve as the president of the
10 New York Medical Cannabis Industry
11 Association, which represents eight of the
12 state's medical cannabis registered
13 organizations, or ROs. We aim to protect and
14 serve medical cannabis patients and help
15 establish a safe, well-regulated and
16 equitable adult-use program. The association
17 enthusiastically supports efforts to regulate
18 cannabis for adult use.

19 And in particular, in New York we have
20 the opportunity to set the gold standard,
21 which is why it's so important that we get
22 this right. We think that the medical
23 operators already invested in New York
24 facilities, jobs and serving New York

1 patients can help support the social equity
2 and economic goals underpinning these
3 legislative efforts.

4 We do feel that there's a sense of
5 urgency, given neighboring states' progress
6 towards legalization and the potential for
7 federal legalization on the horizon. And as
8 the adult-use proposals currently stand, the
9 MRTA has critical elements that the
10 association supports, including comprehensive
11 social equity policies and key improvements
12 to the medical program, such as adding whole
13 flower, which I outline in more detail in my
14 written testimony.

15 Specific to today's focus on revenue,
16 I would like to emphasize that the RFP
17 auction process included in the CRTA will
18 primarily serve to significantly delay
19 revenue and job growth, while also
20 undermining social equity principles. Among
21 current standards for cannabis legalization
22 policy, the RFP process in the CRTA uniquely
23 fails on a few fronts. It delays tax revenue
24 and job growth, in particular when it comes

1 to including the ROs.

2 New York has already run a competitive
3 process to determine that the current ROs are
4 able to cultivate, process and sell medical
5 cannabis and abide by regulations, which
6 we've done for years now. The time-consuming
7 RFP process delays any ability to initiate
8 adult-use sales and start investing in new
9 jobs and new infrastructure. The process
10 also would delay social equity.

11 Allowing the existing processors to be
12 assessed a license fee for the privilege of
13 remaining operational in the adult-use
14 program could seed the state-administered
15 social equity fund immediately, which is a
16 concept included in the MRTA.

17 And lastly, the process would leave
18 patients in the lurch. Without adult-use
19 collocation, medical operators will not be
20 able to survive in an adult-use market.
21 Pediatric patients, any folks in hospice or
22 other institutional care settings will not be
23 able to access, much less afford, medicine in
24 the adult-use program.

1 The revenue focus we believe should be
2 on bringing medical ROs and social-equity
3 licensees to market as quickly as possible to
4 focus on generating the tax revenue, the job
5 creation and meeting equity goals
6 simultaneously.

7 Our industry supports nearly a
8 thousand jobs and has made considerable
9 investments to serve New York patients, and
10 we want to continue to serve New Yorkers by
11 helping New York get adult use right. I look
12 forward to entertaining any questions and
13 appreciate your time and consideration this
14 evening.

15 CHAIRWOMAN WEINSTEIN: Next, SAM
16 Action.

17 DR. SABET: Thank you, Madam Chair.

18 My testimony tonight is based on my
19 own experience and that of over a dozen top
20 scientists who serve on the advisory board
21 for SAM, Smart Approaches to Marijuana, which
22 I cofounded with former U.S. Congressman
23 Patrick Kennedy. We're the leading
24 nonpartisan, nonprofit national

1 organization -- based in New York now --
2 offering a science-based approach to
3 marijuana policy.

4 I recently served in the Obama
5 administration as the senior drug policy
6 advisor, and I'm an adjunct professor at Yale
7 University.

8 While we should remove criminal
9 penalties and continue to do that by not
10 penalizing people for use, while we
11 absolutely should expunge records and invest
12 in prevention and treatment, generally the
13 legalization of marijuana is bad policy and
14 should be opposed.

15 Scientific literature on the harms of
16 marijuana use exist in abundance; I'm not
17 going over that for my testimony tonight.
18 But if you're interested in that, the most --
19 latest review was by the independent National
20 Academies of Sciences, which reviewed over
21 20,000 peer-reviewed research articles
22 linking both marijuana but also the
23 legalization of marijuana to severe negative
24 outcomes.

1 There are really three big issues here
2 specifically relevant to the Budget Committee
3 that I want to bring up.

4 The first is outcomes like hospital
5 admissions due to high-potency THC ingestion
6 or increased poison center calls should
7 absolutely be expected, especially in the
8 beginning of legalization. This has happened
9 in every single state that's legalized,
10 without exception.

11 These would incur real costs in
12 New York at a time when our hospital capacity
13 is at the brink, at the time of a major
14 pandemic. It doesn't make sense to stretch
15 those resources even more.

16 The second point is, you know, for
17 states that have legalized, revenue from
18 marijuana sales often accounts for really
19 less than about 1 percent of their overall
20 budget. Colorado marijuana revenue, for
21 example, represents 0.9 percent of the state
22 budget. California is much worse. There's a
23 thriving black market that does not go away
24 when you legalize the drug. And there are

1 costs as well, so it's not just revenue, of
2 course; we have to count the costs.

3 A study in Connecticut, for example,
4 found that the costs associated if they were
5 to legalize marijuana -- and it's definitely
6 not a sure thing that they will this year --
7 would total more than \$200 million while
8 revenue would, you know, be around
9 \$100 million.

10 Legalization results in a variety of
11 also unquantifiable costs as well. And while
12 our neighbors over in New Jersey may start to
13 rake in a few bucks in a couple of years,
14 they will also have several costs that we
15 must take into account.

16 The third point is really -- I agree
17 with the first person testifying that we
18 should look at the Illinois example. It's
19 really the only other state other than
20 Vermont, in a modified version, that's
21 legalized marijuana through the Legislature.
22 They said they'd be the standard for social
23 equity, and yet they have not one major
24 minority license holder. Everything is going

1 to wealthy investors.

2 Big Tobacco is now a major investor,
3 also Big Alcohol, and there's absolutely
4 nothing to hold them back. They are already
5 lobbying for legalization -- Altria/Philip
6 Morris, that is -- in Virginia as well as in
7 D.C., on Capitol Hill, and we know who will
8 be making profits if legalization passes here
9 in New York.

10 CHAIRWOMAN WEINSTEIN: We do have a
11 few members. We go to Assemblyman Ra.

12 ASSEMBLYMAN RA: Thank you.

13 I was wondering if the panelists could
14 just weigh in on something for me. Obviously
15 we're considering this particular proposal,
16 there were just some changes proposed in the
17 30-day amendments with regard to distribution
18 of revenues, which I assume was meant to get
19 the Governor's proposal closer to the
20 proposal we've seen in the Legislature. And,
21 you know, there's a lot of talk of equity
22 funds and things like that.

23 But, you know, the last panelist just
24 mentioned, you know, one such cost, you know,

1 with poison control and things like that.

2 But what your thoughts might be on
3 there being some set-aside of revenues to
4 deal with costs like that, to deal with
5 potential public safety costs, you know, like
6 training drug recognition experts, things of
7 that nature, which is expensive.

8 And last week we had a -- or two weeks
9 ago we had a hearing with local governments
10 and, I mean, the number of trained drug
11 recognition experts amongst the largest
12 police departments in our state, I mean, it's
13 a handful. So there's going to be a huge
14 need there, and it's going to be expensive.

15 DR. SABET: Well, there's going to be
16 a huge need, Assemblyman, and there will
17 never be enough. I mean, DREs, there can
18 never be enough drug recognition expert
19 officers to be able -- and I'm sure
20 everyone's familiar with the term -- to be
21 able to identify drugged drivers.

22 Marijuana affects everybody
23 differently in terms of their driving ability
24 in their system, although scientific research

1 now says it about doubles your risk of a car
2 crash. We know that the unfortunate limo
3 crash a few years ago, the driver was
4 positive for marijuana. We know several of
5 the Amtrak issues were related to marijuana.

6 So I do think it's a big issue. A
7 drugged driving fatality costs about a
8 million dollars in lost social costs.

9 And I think we can't underestimate
10 also the administrative costs, the regulatory
11 costs as well. I haven't seen one state deal
12 with that particularly well in terms of being
13 able to distribute that. It usually goes to
14 a General Fund. There are often promises
15 that it will go to prevention and treatment
16 and things like that, but again I haven't
17 seen that -- while I've certainly not seen it
18 be reinvested, as we're hearing, in
19 communities that have been hurt by the War on
20 Drugs.

21 Frankly, the communities we work with
22 that are very vulnerable communities, the
23 last thing they want are pot shops in their
24 community, just like they don't want liquor

1 stores in their community. It doesn't help
2 them, it doesn't raise -- you know, it
3 doesn't help their youth, it doesn't help
4 raise real estate prices. And they see it as
5 just like those payday cash shops.

6 And I'm sure most of you know the
7 majority of localities in states that have
8 legalized have actually banned marijuana
9 sales altogether, and they don't want the
10 revenue because they know it comes with
11 considerable costs.

12 So there are a lot of considerations
13 there.

14 MR. GANDELMAN: I think if you look at
15 the MRTA, there is a portion of local sales
16 tax revenue that does go to the local
17 municipalities. So if they want to spend it
18 on enforcement, et cetera, they could.

19 But I do think we need to realize that
20 these are already issues communities are
21 dealing with. All of a sudden because we're
22 going to have an adult-use program does not
23 mean the rates of use are going to skyrocket.
24 That is just simply not true and not what we

1 have seen in other states.

2 I think the bigger issue is that we
3 still have a social equity piece happening in
4 the city. So for Mr. Sabet to say that, oh,
5 these communities, they don't want this, they
6 don't want that, I think, you know, that's
7 really not fair. And I think we should be
8 letting those communities speak for
9 themselves when it comes to this topic. And
10 I don't think making those sweeping
11 generalizations is really fair to anyone.

12 That being said, the amount of jobs
13 and revenue this will create in those
14 communities, especially if we allow social
15 consumption and home delivery, is
16 astronomical. The last revenue report that
17 came out, there was an independent study that
18 came out last week that was citing
19 50,000 jobs. I mean, this is not a small
20 number of jobs, especially affecting
21 communities that have been impacted by the
22 War on Drugs.

23 CHAIRWOMAN WEINSTEIN: Thank you.

24 (Overtalk.)

1 MS. ABEBE: I do want to -- I just
2 want to interject here that the Legislature's
3 bill addresses some of these revenue
4 commitments as well.

5 CHAIRWOMAN WEINSTEIN: Okay. We are
6 going to go to the Senate.

7 Liz, you're muted.

8 CHAIRWOMAN KRUEGER: Thank you.

9 So I think everybody knows I am the
10 lead sponsor in the Senate of the bill being
11 debated. And it's not the intention of this
12 hearing to per se be a MRTA hearing. You
13 know, I appreciate Kevin's continued advocacy
14 against the bill. He's been a consistent --
15 I don't know, I'm starting to think a voice
16 of one to continually tell me this is all
17 wrong.

18 And I'm happy to discuss it with
19 whomever, but I don't think you actually want
20 me to tonight. So I'm not going to, other
21 than to urge people to take a look at the
22 actual bill, take a look at the comparisons
23 between the proposal the Assembly and the
24 Senate have -- it's a same-as bill in both

1 houses, MRTA -- and take a look at what's
2 going on around the country. But I certainly
3 don't think you will see large numbers of
4 communities pulling out of the program once
5 it's started.

6 And I do just want to remind everyone,
7 all the concerns that they may have about
8 marijuana -- and it's legitimate. Concerns
9 about any kind of mind-altering drug, whether
10 it's alcohol or marijuana or a dangerous
11 addictive drug -- that there are prices that
12 come along with it, I completely agree. The
13 thing is here in New York that's already been
14 here forever. We're the largest marijuana
15 market in the country by far. It's just none
16 of it is legal or regulated with any attempts
17 to make sure that it's safe product or that
18 there's a limitation on the strength of the
19 THC or that you're going after people who are
20 violating your law.

21 So my position is we already have it;
22 should we be doing it right? And people can
23 welcome having different positions. And I --

24 DR. SABET: Senator --

1 CHAIRWOMAN KRUEGER: Yes.

2 DR. SABET: If I can -- I commend you,
3 actually, even though we are on opposite
4 sides of this issue, clearly. I do commend
5 you for being honest and forthright about the
6 dangers and the costs and saying publicly --
7 even though it may not be in the interests of
8 the bill, necessarily -- but saying publicly
9 that this isn't going to solve budget issues
10 and it's going to take some time and we have
11 to be sort of, you know, honest and direct
12 about it.

13 I think the reason why -- and, you
14 know, I'm flattered that you think it's just
15 me, but joined by, you know, the Medical
16 Society of the State of New York, which is
17 firmly behind our efforts, as well as the
18 New York State PTA and many other groups, by
19 the way -- law enforcement groups, public
20 safety, public health, parent groups who are
21 joining in opposition to just the general
22 effort -- either effort to legalize
23 marijuana -- is that what we're concerned
24 about is not so much taking the legal market

1 and just saying, okay, if -- let's say
2 10 percent of New Yorkers, you know, use
3 marijuana, we're going to just shift that
4 over to the legal market and then it will
5 just be an easy shift.

6 What our concern is going to be -- and
7 I have to take issue with Allan's point.
8 There was just a study yesterday about
9 California youth use increasing after
10 legalization. The issue is -- and it's not
11 just youth, it's other ages too -- that we're
12 going to add to it.

13 It's not that we all think that it's
14 going to go away or we don't have a -- you
15 know, like you said, a robust marijuana
16 market now. We do. I'd personally rather
17 have, you know, 7 percent of New Yorkers, you
18 know, engaged in a marijuana market that
19 might be illegal than 30 percent, you know,
20 engaged in something that's controlled by Big
21 Tobacco and Big Alcohol. That is a tradeoff.
22 All policy is tradeoffs.

23 And someone could disagree with that,
24 but the worry is not so much that there will

1 be like a 1-to-1 shift, the worry is that
2 we're going to see costs mount and there be a
3 dual market -- actually, a triple market: an
4 illegal market remaining, a legal market, and
5 then a gray market.

6 And the gray market we've seen, for
7 example, in places like Colorado big time,
8 where you have, you know, people and
9 distributors buying legally, selling
10 illegally, because it's still illegal for
11 kids and, you know, after hours and that kind
12 of thing.

13 So I think those are the concerns,
14 especially when we start talking about
15 delivery services, on-site consumption, pot
16 bars generally. These are some of the -- you
17 know, the concerns.

18 MR. GANDELMAN: So I think we agree on
19 one thing, is that we don't want to see an
20 industry controlled by large tobacco
21 companies, and that's exactly what my
22 testimony is about. You are on point
23 1,000 percent there.

24 We want to see a small, decentralized

1 local system benefiting small business
2 owners, small entrepreneurs, benefiting the
3 people that have been harmed by the War on
4 Drugs. That exactly what we would like to
5 see, and that's exactly what we're talking
6 about here.

7 CHAIRWOMAN KRUEGER: I was more --

8 MS. ABEBE: A little after the point,
9 but it does not have to be inevitable who
10 owns -- there is a lot of avenue here for the
11 state to be determining who is participating
12 in the future cannabis market. And while
13 some people might be comfortable with several
14 percent of New Yorkers being exposed to
15 policing risks and other side effects of the
16 War on Drugs, I think others would like to
17 start to see a regulated market and revenue
18 being generated to address those very same
19 policing costs --

20 DR. SABET: If we think we're not
21 going to have police --

22 CHAIRWOMAN WEINSTEIN: (Overtalk.)

23 DR. SABET: If we think we're not
24 going to --

1 CHAIRWOMAN KRUEGER: My time is up,
2 actually, guys. The clock just went off. So
3 I'm going to hand it back to the Assembly.

4 Do you have anyone else, Helene?

5 CHAIRWOMAN WEINSTEIN: Yes, we do. We
6 have Assemblyman Cahill.

7 ASSEMBLYMAN CAHILL: Thank you.

8 I'd like to -- excuse me for doing
9 this, but I'd like to bring it back to the
10 budget. And there is a proposal in the
11 budget by the Governor for legalization. And
12 if I am not misunderstanding the conversation
13 that I just heard, I think we have a panel of
14 three people who are opposed to the
15 Governor's proposal. Is that a fair -- just
16 with a nod of the heads, is that a fair
17 consensus?

18 (Panelists nodding.)

19 MS. ABEBE: I think we believe the
20 Governor's proposal could be improved as
21 well. And that between the CRTA and the MRTA
22 there is a pathway to effective legalization
23 in New York.

24 ASSEMBLYMAN CAHILL: Okay. And the

1 second question that I had is the MRTA bill
2 provides for a significant amount of the
3 resources that would be derived from the bill
4 to be specifically dedicated to purposes
5 other than puffing up the budget. And pardon
6 that pun there.

7 But it's intended to enhance programs
8 for prevention and treatment, it's intended
9 for reinvesting in communities, it's intended
10 for a variety of purposes that do not tout
11 marijuana as a revenue producer and therefore
12 make it as attractive to the State of
13 New York as the Lottery has become. Let's
14 not even talk about alcohol for a minute.
15 But the Lottery has become, as I call it, a
16 tax on stupidity. And it seems like we could
17 be heading down the same path if marijuana
18 becomes primarily a revenue raiser.

19 What other measures do you think we
20 could take to assure that if we have a
21 marijuana market, that it's legal in New York
22 State, that ends the horrible impact that
23 it's had on a number of communities because
24 it is illegal -- what could we do to assure

1 that it is the most responsible market in the
2 United States of America?

3 DR. SABET: Well, there are a lot of
4 things that could be done, and I think, you
5 know, we're not trying to be unproductive
6 here and just be kind of, you know, no, no,
7 no. Although we don't like it. We stand
8 with every major medical association in the
9 country in opposing legalization.

10 However, I think even Senator Krueger
11 mentioned the idea of potency limits.
12 There's no reason why you need to sell 99.9
13 percent shatter, which has -- you know, we
14 are just beginning to learn what even the
15 short-term impacts of that are, let alone
16 medium to long-term. We can look at child
17 packaging, warning labels.

18 It makes no sense to me if we're
19 banning flavored vapes and all kinds of
20 things on the e-cigarette end -- when many of
21 those same companies are in the marijuana
22 business and are absolutely going to try and
23 get in here -- that we wouldn't do the same
24 thing for marijuana.

1 So we can look to those examples, we
2 can look to the no-smoking law, Clean Indoor
3 Air Act kind of examples. So there are
4 things that can be done. I just -- the
5 fundamental disagreement is that I don't
6 think that that revenue that we're talking
7 about is going to even come close -- you
8 know, budget aside, is going to even come
9 close to needing to provide for the
10 prevention, treatment -- again, where we're
11 putting our vulnerable healthcare resources
12 given the current pandemic.

13 The driving issue in these other
14 things that are going to happen -- I
15 absolutely want to reduce police presence
16 when it comes to marijuana. We're on the
17 same page there. But I personally, when I
18 look at Colorado and see an increase in
19 youth, Black and Hispanic youth being
20 arrested in Colorado after legalization
21 because of -- you know, it's still illegal
22 for under 21, it's still illegal public use,
23 it's still illegal in public transit --
24 although lately in Manhattan it sort of

1 doesn't seem that way, but it's supposed to
2 be.

3 And those things could be enforced and
4 we could actually see in many ways an uptick
5 in enforcement among certain populations,
6 like we've seen in Colorado. So I think we
7 have to be very careful in --

8 ASSEMBLYMAN CAHILL: If I -- if I may
9 interrupt you, I want to allow the other
10 panelists to speak, and you're well over my
11 time, if you don't mind.

12 DR. SABET: Oh, yeah, I didn't notice.

13 MR. GANDELMAN: So in terms of safety,
14 if you look at what we've done with the hemp
15 CBD extracts bill, there is very strict
16 full-panel testing for all pesticides,
17 chemicals, et cetera. There's very clear
18 labeling instructions. There is a whole
19 seed-to-sale tracking system in place,
20 third-party inspections to make sure that
21 we're not putting out products or the
22 cannabis industry is not putting out products
23 that are, you know, dangerous or harmful like
24 the illegal industry could be doing onto the

1 marketplace.

2 And so I think that, you know, that is
3 really the biggest thing and the biggest
4 advantage we have about the legal
5 marketplace, is that full transparency in
6 testing and labeling that we can provide.

7 MS. ABEBE: And the good news is
8 that's already in place in New York. With
9 the medical program there are already very
10 strong regulations around testing standards,
11 advertising, processes already established
12 for reviewing products and reviewing
13 advertisements and even speaking engagements.
14 And a number of those protections are already
15 in place and would just need to be expanded
16 and applied to the adult use market.

17 ASSEMBLYMAN CAHILL: Thanks very much.

18 CHAIRWOMAN WEINSTEIN: Thank you.

19 We'll go to the Senate now.

20 CHAIRWOMAN KRUEGER: Okay, I think I
21 saw Tom O'Mara's hand up first.

22 SENATOR O'MARA: Thank you, Liz.

23 Thank you, all three of you, for your
24 perspectives on this.

1 I'm just wondering as I sit hearing
2 the discussion about marijuana and looking
3 back to Governor Cuomo's change in attitude
4 on this a couple of years ago -- where I
5 believe throughout his entire career,
6 according to him, marijuana was a gateway
7 drug. And then he turned to his health
8 commissioner to look at this, costs, benefits
9 of marijuana recreationally, and in the
10 course of I think it was about two months or
11 less, his health commissioner, Howard Zucker,
12 came back with a cost-benefit analysis saying
13 that now the benefits of marijuana outweigh
14 its costs and ill effects on society.

15 And I'm wondering if any of you have
16 reviewed Dr. Zucker's analysis and what your
17 thoughts are now on what actually are the
18 benefits of this other than, prospectively, a
19 couple of hundred million dollars.

20 DR. SABET: So we've actually --

21 MS. ABEBE: Be happy to speak to some
22 of that. First of all, I think -- again, the
23 medical cannabis program is here, which is a
24 sign that the state believes that cannabis

1 does have benefit for some consumers.

2 The average medical cannabis patient
3 in New York is a 55-year-old woman, and she's
4 sick. That's actually not too far off from
5 what the average cannabis consumer looks like
6 in an adult-use market. And according to
7 Albert Einstein-Montefiore's research in
8 Colorado, roughly two-thirds of all adult-use
9 customers are coming in for a health and
10 wellness reason. And the top three reasons
11 are insomnia, anxiety and chronic pain.

12 And so I think that like a lot of
13 folks over the course of the last few
14 decades, we have seen more research --

15 SENATOR O'MARA: All right. My
16 question, though -- Ngiste, my question,
17 though, is not about the medical aspects of
18 it, it's about the recreational aspects of
19 it.

20 I was one of the first Republicans to
21 sign on to the medical marijuana legislation
22 and support its use for medicinal purposes.

23 MS. ABEBE: And we appreciate that.

24 SENATOR O'MARA: It's the recreational

1 side of it that concerns me, and how the
2 health commissioner reviewed this, in a
3 matter of two months determining that there
4 were now all of a sudden more benefits of it
5 than there were societal costs of it.

6 DR. SABET: So, Senator, we actually
7 did a review of Mr. Zucker's specific report
8 that you're talking about. We did a
9 line-by-line review.

10 And when I say "we," I'm talking major
11 researchers, NIH researchers, nonpartisan
12 folks, folks that some of them don't have an
13 opinion on legalization. But they were --
14 they were really struck, I've got to be
15 honest with you -- and again, as somebody who
16 worked in Obama's drug strategy, I have
17 respect for the Governor and I have a respect
18 for Mr. Zucker. But we were really taken
19 aback, if I am to be honest here, at the tone
20 and the things that were emphasized in that
21 report.

22 And I wish I could say it was in a
23 good way we were taken aback, but it was not
24 in a good way. And there were many

1 questionable claims that looked really
2 straight out of talking points from the
3 industry.

4 And I think the political timing was
5 interesting. I think that we have to look at
6 all of that. But I will -- I'm happy to
7 share in the chat with panelists and
8 attendees the rebuttal, which was from about
9 two years back right now, that goes through
10 that. So I, you know, can -- I'll yield the
11 time, but you can see that.

12 SENATOR O'MARA: That would be great.
13 Thank you.

14 DR. SABET: Sure.

15 CHAIRWOMAN KRUEGER: Okay, Tom's done.
16 Assembly, anyone else?

17 CHAIRWOMAN WEINSTEIN: No, we do not.

18 CHAIRWOMAN KRUEGER: All right, then
19 I'm going to turn to Senator Alexis Weik.

20 Did I pronounce your last name
21 correctly? I didn't, did I?

22 SENATOR WEIK: Yes, you did. Weik is
23 correct, thank you.

24 CHAIRWOMAN KRUEGER: Thank you.

1 SENATOR WEIK: So thank you to all of
2 our panelists; I appreciate your input.

3 And I just -- Kevin, I'd like to tell
4 you you're not the voice of one, you're the
5 voice of many. As I've talked to many
6 communities, I've not yet heard of a
7 community that supports the legalization of
8 recreational marijuana, especially in a time
9 when we're looking at the effects on smokers
10 and it's having with COVID, I don't think
11 we're looking to legalize something that
12 people are now going to be inhaling, damaging
13 their lungs and making them, you know,
14 another candidate for COVID and overwhelming
15 our hospitals.

16 So this is probably not a good time,
17 especially when we are fighting to get rid of
18 opioids, and this is something we've spent
19 billions of dollars on. And now we're going
20 to try to make them legal, and that's
21 supposed to help us in our fight.

22 As Senator Krueger has mentioned, this
23 is a mind-altering drug, and New York is one
24 of the largest markets already. What on

1 earth makes us think that creating a law is
2 going to actually eliminate the black market
3 and actually create revenue? Does anyone
4 think this is actually going to create
5 revenue, especially when we're looking at
6 other states that have already proven that
7 this is not creating a revenue -- there's a
8 short-term influx of revenue and then the
9 black market takes over again.

10 So what are we looking at? Why are we
11 making this legal and what revenue can we
12 expect?

13 MR. GANDELMAN: I would disagree with
14 you strongly that the black market takes over
15 again. I mean if you look at the more mature
16 markets like Colorado, like Oregon, most of
17 their sales have actually moved to the legal
18 market, not the black market. So I think
19 that's just an incorrect assumption.

20 And then yes, smoking anything and
21 cannabis can be a public health issue, the
22 same to your point. But the fact still
23 remains that New York is the biggest cannabis
24 market in the country, as Senator Krueger has

1 just mentioned.

2 So to not get this under control, to
3 not have products that are regulated, to not
4 tax them and pay for the public health damage
5 that could already be occurring just does not
6 make any sense.

7 DR. SABET: I -- I --

8 MR. GANDELMAN: I completely disagree
9 that the black market will thrive here. If
10 taxing is done right, if licensing is done
11 right, if we give the right entrepreneurs the
12 access to the market in their own
13 communities, the black market could be gone
14 in a matter of years.

15 DR. SABET: You know, one thing I love
16 about living in New York and being a
17 New Yorker is that we usually do things
18 better than anyone else, and we know it. And
19 we do, we follow with that promise.

20 And I think that hubris may get us
21 into a little bit of trouble this time,
22 because every state before this has said
23 these exact things -- we will fund these
24 communities, we will get rid of the black

1 market, we will have robust regulation and
2 testing so we know what's in it.

3 And when you look at, for example --
4 again, don't take our word for it, look at
5 independent reports. I mean, I clearly have
6 a point of view. But look at independent
7 reports like the Oregon Secretary of State
8 report that came out last -- 2019, which
9 found that basically 3 percent of the entire
10 state legal market was being regulated
11 properly, that the vast majority of sales
12 were happening on the gray or black markets,
13 and it wasn't fulfilling the promises that it
14 said.

15 And so again -- look at Ontario,
16 Canada. I mean, we're a state that
17 neighbors, you know, our neighbor to the
18 north. Look at the Auditor General of
19 Ontario Province, Canada, which just did a
20 report saying that 80 percent of their market
21 is still on the black market. And these are,
22 you know, eminently sensible Canadians and
23 with regulations that frankly don't have the
24 influence of Big Tobacco and Big Alcohol --

1 like unfortunately many of our U.S. states
2 do -- and they are freely saying, you know,
3 sort of quietly saying, but they are saying,
4 this is a problem.

5 So I urge you all to do that
6 independent research --

7 (Overtalk.)

8 MR. GANDELMAN: I -- I'm very --

9 DR. SABET: -- really compelling.

10 MR. GANDELMAN: I'm very confused.

11 You're telling us Big Tobacco and Big Alcohol
12 is going to come in and take over the entire
13 industry, but the black market's going to be
14 completely flourishing. With -- if --

15 DR. SABET: Yeah, absolutely. Yeah.

16 (Overtalk.)

17 MR. GANDELMAN: Wouldn't those huge
18 industries want to completely abolish the
19 black market and --

20 (Unintelligible cross-talk.)

21 CHAIRWOMAN WEINSTEIN: This isn't --
22 this isn't an opportunity for you to debate
23 each other --

24 DR. SABET: Agreed.

1 CHAIRWOMAN WEINSTEIN: It's for
2 members to ask questions. And I believe that
3 we have no other members looking to ask
4 questions. So --

5 CHAIRWOMAN KRUEGER: I just need to
6 close with one statement, I'm sorry, Helene.

7 CHAIRWOMAN WEINSTEIN: Sure.

8 CHAIRWOMAN KRUEGER: Just to clarify
9 for Senator Weik when she referenced
10 marijuana as if it was an opioid. It's not
11 an opioid. There's no research showing that
12 it leads to addiction like opioids. And in
13 fact the places in the world and this country
14 that have easier access to marijuana have
15 lower levels of opioid abuse and overdoses
16 and death.

17 So you might not like marijuana and
18 you might not want legal marijuana; that's
19 totally your right. So please don't confuse
20 what cannabis is and what opioids are,
21 because they're not the --

22 SENATOR WEIK: Senator, please know
23 that I'm not confusing them, but no doubt it
24 is a gateway drug and it will lead to

1 opioids, as fact and research will show you.

2 And it's time and time again,
3 everywhere. And if you ever had a loved one
4 who was an addict, you'll know that it's
5 generally a gateway drug to opioids.

6 And since we're spending billions of
7 dollars to fight opioids, I don't think we
8 have the money set aside to then facilitate
9 the rehab centers and the medical costs it's
10 going to cost the state when we see all the
11 dangers that Mr. Sabet has -- Dr. Sabet, I'm
12 sorry, has been referencing. And I don't
13 think the state is in the position to fund
14 those issues at this time, do you?

15 CHAIRWOMAN KRUEGER: Well, I'm hoping
16 that revenue from legal marijuana will help
17 to fund drug treatment and prevention and
18 education. And again --

19 SENATOR WEIK: No one actually
20 answered my question I was asking. How much
21 revenue do we actually expect to make from
22 the legalization of recreational marijuana?

23 CHAIRWOMAN KRUEGER: Oh, it's
24 projected over a longer period of time. So I

1 could get you the data from my proposal. I
2 won't tonight, but I can get you that.

3 But again, the science has proved that
4 it is not a gateway drug to opioids, and
5 that's been a fact --

6 SENATOR WEIK: I think there's --
7 well, there's many scientific research --

8 (Overtalk.)

9 CHAIRWOMAN WEINSTEIN: So with that,
10 we're going to move -- we're going to --

11 SENATOR WEIK: -- that can debate
12 that, yeah.

13 CHAIRWOMAN WEINSTEIN: We'll leave
14 this for future debate and thank our panels
15 for being here and helping us have this
16 lively debate, and we will move on to
17 Panel D --

18 DR. SABET: Thank you all for the --

19 CHAIRWOMAN KRUEGER: Thank you all.

20 DR. SABET: Thank you.

21 CHAIRWOMAN WEINSTEIN: -- Saratoga
22 Harness Horseperson's Association and
23 New York Hotel and Motel Trades Council.
24 Joseph Battaglia is with the Saratoga

1 Harness, and Rich Maroko, president of Hotel
2 Trade Council.

3 So if we can have Joseph go first.

4 MR. BATTAGLIA: Sure. Thank you.

5 Good afternoon. My name is Joe
6 Battaglia. I'm secretary/treasurer of the
7 Saratoga Harness Horseperson's Association,
8 representing more than 650 members, including
9 racehorse owners, trainers, drivers and
10 grooms -- the people that create the
11 excitement at the Saratoga Harness Race
12 Track.

13 There's a section of the proposed
14 budget, Part LL, Article 7, that provides, at
15 our association's expense, a windfall for
16 out-of-state-run Rivers Casino. This would
17 simply break the backs of our membership,
18 this unanticipated expense. Instead of
19 Rivers paying statutory purse support
20 payments to our association, Rivers would be
21 getting a free ride to the tune of millions
22 of dollars. And we respectfully ask that
23 Part LL be removed from your respective
24 budget bills.

1 The statutory purse payments come from
2 video lottery terminal proceeds, which many
3 people may know as the slot machine proceeds.
4 Our VLT share was earned by our participation
5 as a stakeholder in the original racino
6 legislation. In fact, Saratoga was the
7 location of the state's first racino.

8 The expansion of the four casinos
9 upstate was done with clear expectations that
10 the VLT revenue would still be shared with
11 horsemen's associations, as purse support
12 payments protect our industry. These
13 payments will be based on annual revenue
14 levels achieved in 2013, plus inflation.
15 It's the responsibility of the state's
16 racinos and casinos to ensure that the
17 funding of these payments is made.

18 To be clear, this responsibility is
19 not unique to Rivers. Rivers in fact shares
20 that responsibility locally to our
21 association with the Saratoga Casino, who is
22 a separate entity from us. What is unique to
23 Rivers, however, though, is that they have
24 failed to forward any payments to the

1 Saratoga Harness Horseperson's for over a
2 year, including the period that was earned
3 before the pandemic hit.

4 So the questions that we have and the
5 concerns we have is why is Rivers Casino,
6 which is operated by an Illinois-based gaming
7 corporation, being awarded a windfall in the
8 millions of dollars? Why are the hardworking
9 horsemen and horsewomen at Saratoga Harness
10 being assigned the burden of paying for that
11 handout? And why is the state part of a plan
12 to hurt local businesses and damage the
13 already struggling economy of Saratoga?

14 The remedy here would be to remove
15 Part LL from your house budget bills. We
16 must protect the horsemen at Saratoga
17 Harness. They must get their fair share of
18 the VLT revenue. If you strip the millions
19 of dollars of purse support, real people with
20 mouths to feed and mortgages and rents to pay
21 will be hurt. It's a price we simply cannot
22 afford to pay.

23 Our percentage of the VLT revenue is
24 not lavish by any means, and every dollar is

1 critical to our members. If you strip the
2 members of these millions, in addition local
3 small businesses that service our industry --
4 the hay, the grain, the shading suppliers,
5 the blacksmiths, the veterinarians that
6 attend to our horses and the breeding farms
7 throughout the state -- will also be hurt.

8 It's clear that this is a sweetheart
9 deal for Rivers -- for only Rivers, and has
10 no place in the state budget.

11 So on behalf of the hundreds of
12 New York State small businesses that comprise
13 our membership, I'd like to thank you for
14 your time and attention today.

15 CHAIRWOMAN WEINSTEIN: Thank you.

16 The Hotel -- yes, Rich, please go
17 ahead.

18 MR. MAROKO: Hi, good evening. My
19 name is Rich Maroko, and I'm the president of
20 the Hotel Trades Council, the union that
21 represents approximately 40,000 hospitality
22 workers in New York.

23 And I'm proud to say that unionized
24 hotel and casino workers in New York have the

1 best hospitality jobs in the world, with the
2 highest pay, the best benefits and, most
3 importantly, a contract that allows them to
4 have real dignity at work.

5 For years that's meant a stable
6 income, access to healthcare and a better
7 quality of life for our members working in
8 those industries. But as the COVID-19
9 pandemic hit and then quickly deepened,
10 everything changed. It had a devastating
11 impact on both the lives and the livelihood
12 of our members. Hundreds of our members have
13 died of COVID-19, and several thousand have
14 become ill.

15 The COVID crisis has also ravaged the
16 hospitality industry, and as a result
17 eliminated thousands of our members' jobs.
18 Over the course of a few weeks last spring
19 the vast majority of our members found
20 themselves without work as the travel and
21 hospitality sectors ground to a halt. And
22 while there may be a light at the end of the
23 tunnel with the advent of vaccines, there's a
24 long way to go before the industries that

1 employ our members fully recover.

2 I'm here today to talk about some of
3 those workers. While the vast majority of
4 our members who work in hotels are still
5 unemployed, one of the lone bright spots for
6 our union in recent months has been the
7 casino industry. Our members at these
8 casinos work as housekeepers, cooks,
9 cashiers, dealers, guards and dozens of other
10 classifications. And we've been able to
11 collectively bargain industry-leading pay,
12 high-quality, low-cost healthcare, and
13 employer-funded retirement benefits for these
14 workers.

15 The union's presence in our contracts
16 at these casinos has truly created a path
17 into the middle class for them. There were
18 several scheduled to speak, and I'm not sure
19 whether they'll be able to.

20 But while the hotel industry's core
21 business has been ravaged by the
22 pandemic-related travel restrictions, casinos
23 have been able to recall a relatively high
24 percentage of their pre-pandemic workforce.

1 Unfortunately, the casinos that employ our
2 members are still in deep trouble. For the
3 3,000 members who work at the upstate
4 casinos -- Resorts World, Rivers and
5 Del Lago -- the situation could become very
6 dire very quickly if the Legislature and the
7 Governor don't act swiftly.

8 Now, while many of the financial
9 troubles these casinos find themselves in
10 predate the pandemic and are the result of a
11 variety of sources, the advent of COVID has
12 certainly exacerbated them. Even before the
13 crisis, these casinos were struggling as a
14 result of several factors, including
15 competing with out-of-state and tribal
16 casinos that paid far less in taxes. We knew
17 that if nothing changed for the better, it
18 was only a matter of time before their
19 financial problems went from bad to
20 catastrophic.

21 And needless to say, the pandemic has
22 made things exponentially worse. Casinos in
23 New York were required to close for six
24 months. Since their reopening in September,

1 they have been operating at partial capacity,
2 which has hampered their ability to make a
3 quick financial recovery. If these casinos
4 close, the state will have to figure out a
5 way to make ends meet without an industry
6 that's generated hundreds of millions of
7 dollars for education, and thousands of our
8 members will lose their jobs.

9 Saving casinos upstate is obviously
10 good for the state and is good for workers,
11 but there's one additional factor I'd like
12 you to consider. All of our contracts
13 include a reopener clause, and that clause
14 requires that if the tax rate applicable to
15 any of these casinos is changed, it ensures
16 that the workers -- and, by extension, the
17 local community -- stand to benefit directly
18 from any relief the state gives in the form
19 of an adjusted tax rate.

20 And for that reason I humbly ask that
21 the Legislature do everything within its
22 power to help the upstate casinos in
23 whichever way you can, so that they can
24 continue to provide great jobs to

1 New Yorkers. During these horrific times,
2 these jobs have offered a lifeline for
3 thousands of residents across the Capital
4 Region, the Finger Lakes, and the Catskills.

5 Now, we had four casino workers who
6 were ready to testify -- Enrique Gomez,
7 Alex Ng, Maryanne Ferrera, and Nicole Brown.
8 I'm not sure whether they got kicked off the
9 queue or not, but I would like to bring to
10 your attention that they did wait patiently
11 for several hours because they wanted to
12 emphasize to you how important their jobs are
13 to themselves and to their families and to
14 entreat you to do anything you can to ensure
15 that they can continue to have those jobs and
16 the middle-class lives that they provide.

17 And I'll be happy to answer any
18 questions.

19 CHAIRWOMAN WEINSTEIN: Sure.

20 Well, I don't believe that they're
21 here. I don't think that they have -- there
22 have been several requests for them to
23 testify. But we'd appreciate if they could
24 put in writing some remarks and send it to

1 the committee, and we'll make sure that it
2 gets distributed to all of the members of the
3 Ways and Means and Senate Finance Committees,
4 and the Racing and Wagering Committees.

5 CHAIRWOMAN KRUEGER: Helene, I know
6 that my colleague Joe Addabbo was trying to
7 get onto the hearing to ask some questions.
8 And I sent a staff person to help him, he was
9 having a little problem. So hopefully he's
10 going to pop up in a second if people won't
11 mind waiting a second or two.

12 CHAIRWOMAN WEINSTEIN: We can wait, we
13 could shuffle a deck of cards --

14 (Laughter; cross-talk.)

15 CHAIRWOMAN KRUEGER: It always goes
16 wrong at exactly the wrong time, you know?

17 CHAIRWOMAN WEINSTEIN: Well, Senator,
18 I do see that Senator Liu has his hand
19 raised. So why don't we go to him, because
20 we do not have any Assemblymembers.

21 CHAIRWOMAN KRUEGER: Oh, thank you.

22 Senator Liu, I see your hand, and we
23 would love for you to ask a question or two.
24 Hi.

1 SENATOR LIU: Thank you, Madam Chair.
2 This is great. I feel like I have an
3 unlimited amount of time until the next --

4 CHAIRWOMAN KRUEGER: No, you have
5 three minutes. But enjoy.

6 (Laughter.)

7 SENATOR LIU: Okay. Well, it's great
8 to see this panel. Thank you for patiently
9 waiting for so long. But your testimony is
10 important.

11 And to President Maroko, are there
12 specific proposals or pieces of legislation
13 or tax items that we could help legislate so
14 that we can keep these jobs in New York?

15 MR. MAROKO: Well, primarily a
16 reduction in the tax rate applicable to
17 slots.

18 You know, there are a variety of
19 different tax rates applicable to each of
20 these casinos that vary fairly widely but are
21 significantly higher than their competitors,
22 either out of state or with regard to tribal
23 casinos. And I think reducing those rates to
24 something far more reasonable would be key in

1 ensuring the survival of these casinos and
2 therefore the preservation of these jobs for,
3 you know, close to 3,000 workers at these
4 three casinos alone.

5 SENATOR LIU: So these are rates that
6 are statutory rates?

7 MR. MAROKO: They are. And there's --
8 as I understand, these casinos come back on
9 basically an annual basis to try to
10 renegotiate them, and they are not consistent
11 among the various casinos -- ranging from, I
12 think, 37 to 45 percent currently.

13 SENATOR LIU: Got it. Thank you very
14 much.

15 And Mr. Battaglia, are you aligned --
16 I mean, is your organization of the same
17 mindset as Mr. Faraldo's organization, the
18 Horsemen's Alliance?

19 MR. BATTAGLIA: Yes. Yes.
20 Mr. Faraldo's association is comprised of
21 different tracks throughout the state, so our
22 concern is their concern.

23 SENATOR LIU: Terrific. Thank you so
24 much.

1 Madams Chair, I just want to
2 demonstrate to you that I do not always hog
3 time. Thank you.

4 CHAIRWOMAN KRUEGER: Oh, I'm sorry, I
5 did not mean to offend you. Thank you very
6 much for jumping in.

7 I believe that Senator Addabbo is now
8 with us. Senator Addabbo? (Pause.) Hmm.

9 THE MODERATOR: I am not seeing the
10 Senator in our list here.

11 CHAIRWOMAN KRUEGER: Oh, well, then I
12 was misinformed.

13 SENATOR LIU: I have more questions,
14 Madam Chair --

15 CHAIRWOMAN WEINSTEIN: No, no, no, no,
16 no.

17 (Laughter.)

18 CHAIRWOMAN KRUEGER: No, no, no.

19 CHAIRWOMAN WEINSTEIN: We want to have
20 some dinner tonight.

21 CHAIRWOMAN KRUEGER: It's true.

22 You know what, Senator Addabbo says
23 hello to you both, I think. And I'm sorry
24 that I can't bring him on the screen now. So

1 I'm sure he can follow up with you both
2 afterwards. Thank you.

3 Thank you, Helene.

4 CHAIRWOMAN WEINSTEIN: And thank you.

5 So now we're going to go to Panel E:
6 Alliance for Clean Energy New York,
7 Anne Reynolds; New York State
8 Assessors Association, Scott Shedler; and
9 Upstate New York Towns Association,
10 Carolyn Warren Price.

11 If we can go in that order, so
12 Anne Reynolds first.

13 MS. REYNOLDS: Thank you. Thanks so
14 much for the opportunity to speak.

15 I'm with the Alliance for Clean Energy
16 New York. Can folks hear me?

17 (Responses of "yes".)

18 MS. REYNOLDS: So it's ACE New York.
19 We are a membership-based organization and
20 our members are clean energy companies as
21 well as environmental organizations.

22 And my testimony today is focusing on
23 Part X of the Revenue Bill of the Executive
24 Budget, which addresses the issue of property

1 taxes for wind and solar.

2 So my written testimony talks a lot
3 about the background and why we need these
4 projects. But briefly, transitioning to
5 renewable sources of electricity is the best
6 strategy and the most important strategy in
7 the fight against climate change, a fight
8 that this Legislature has endorsed by virtue
9 of passing the CLCPA, the Climate Leadership
10 Act, in 2019.

11 So we strongly support Part X of the
12 Revenue Bill. It would amend the
13 Real Property Tax Law and the
14 General Municipal Law to direct the New York
15 State Tax and Finance Department to publish a
16 standard method for assessing wind and solar
17 projects. And it also makes it clear that
18 renewable energy is among the types of
19 economic development that Industrial
20 Development Agencies are allowed to support.

21 So we care about the taxation of
22 renewables because that process to negotiate
23 a property tax agreement with three
24 jurisdictions -- the city, village or town,

1 the school district and the county -- is
2 currently taking up to two years and more.
3 And by providing a standard methodology, the
4 State of New York could help with that.

5 These are unique land uses for which
6 there's really currently no agreement on the
7 appropriate tax approach. New York's towns,
8 counties and IDAs will have a consistent
9 foundation on which to make decisions about
10 taxation if this legislation was to pass.

11 So it's important to note that nearly
12 all wind and solar projects in New York are
13 taxed via payments in lieu of taxes, PILOT
14 agreements. And this bill would maintain the
15 flexibility for the communities to continue
16 to use PILOT agreements if they would like.

17 In some cases, though, community
18 members object to a PILOT being used, in the
19 belief that it's an unfair subsidy for
20 renewable energy projects. And in fact we
21 view it as the vehicle by which these
22 projects pay their taxes, not necessarily a
23 tax break. But in any case, when this
24 happens the local government then looks

1 around to determine what full taxation would
2 be, but there's no state guidance and very
3 little precedence on which to base this
4 decision.

5 As I said, wind and solar are unique
6 land uses, and you can't simply compare
7 properties like you would for a commercial
8 building or a home. And the amount of
9 revenue that a wind or solar project
10 generates is absolutely related to its size,
11 but it can depend also on the power prices in
12 that area, how windy or sunny the area is,
13 and other factors.

14 So we really think it would be helpful
15 if the State of New York would publish a
16 standard assessment methodology -- which, by
17 the way, exists for oil and gas
18 exploration -- and while still allowing the
19 municipalities to choose to do a PILOT if
20 they want to.

21 So we support Part X. We think it
22 strikes the right balance. And we
23 respectfully request that both houses of the
24 Legislature include it in their one-house

1 budget bills and support it in the final
2 budget.

3 And I'm happy to answer questions.

4 CHAIRWOMAN WEINSTEIN: New York State
5 Assessors Association.

6 MR. SHEDLER: Yes, good evening. I
7 first would like to thank you, the committee,
8 for allowing me to speak this evening.

9 My name is Scott Shedler. I'm the
10 immediate past president of the New York
11 State Assessors Association and an assessor
12 in the Town of Ramapo, and I'm currently a
13 legislative liaison.

14 I want to thank this Legislature and
15 their staff for their dedication over the
16 past year, and thank you for supporting the
17 majority of our recommendations on last
18 year's budget.

19 First what I'll speak about is Revenue
20 Bill X, solar. The New York State Assessors
21 Association has reviewed the bill pertaining
22 to the valuation of solar and wind, and we're
23 very concerned about this proposed
24 legislation.

1 First, this takes the taxation
2 valuation out of the hands of the local
3 assessor. Currently, as amended -- this
4 legislation was amended recently, and it
5 takes the income approach out of the
6 mechanism for valuation, and it allows for
7 the use of a discounted cash flow. This
8 discounted cash flow will be using a discount
9 rate, and all these rates and methodologies
10 will be derived from the Department of Tax
11 and Finance.

12 So there's a concern that since there
13 is no methodology actually that they have in
14 place or one that's proposed at this point,
15 it wouldn't make -- we wouldn't recommend
16 adopting legislation without knowing the
17 outcome of that model.

18 We've asked industry analysts, one
19 renowned appraiser on solar and renewable
20 energy, to look at this discounted cash flow
21 approach. And depending on the varying
22 discount rate, it could have a devastating
23 effect on the overall taxes that a
24 municipality has.

1 You know, this also raises
2 constitutional issues on taking the valuation
3 away from the local entity, the home rule
4 issue.

5 We're very concerned about losing
6 possibly 50 percent of assessment on a
7 project -- we're totally in favor of
8 renewable energy and the need to expand it,
9 but we think by mandating an approach that,
10 first of all, we don't even know what the
11 approach is going to be, it could be
12 devastating for municipalities across the
13 state. Especially now when many of these
14 municipalities are stretched with their
15 budgets, dealing with COVID-related issues.

16 So we're asking that you remove Item X
17 from the budget.

18 You know, these solar farms, and wind,
19 generate electricity that goes into the grid.
20 If the state wants to legislate incentives at
21 the state level, not at the local level, that
22 might be an alternative. Because it feeds
23 electricity into the grid that serves many
24 different municipalities. So really maybe we

1 should look at it as an overall state issue.

2 Lastly are the STAR changes. We
3 recommend a majority of the STAR changes that
4 are proposed. We do feel that because of the
5 assessors' calendar, these should be phased
6 in over a multiyear period.

7 Thank you.

8 CHAIRWOMAN WEINSTEIN: Thank you.

9 And now Upstate New York Towns
10 Association. Ms. Price?

11 MS. PRICE: Okay, thank you very much.
12 And I'd especially like to thank Chair
13 Weinstein and Chair Krueger and distinguished
14 members of the panel for giving us this
15 opportunity.

16 I'll speak about two taxes. The first
17 is the right-of-way tax, also known as the
18 fiber-optic tax, where the state is taxing
19 companies with fiber lines in the state
20 right-of-way. And this is really working
21 against what we're trying to do with
22 broadband. We need to expand broadband in
23 upstate New York. And we've really seen it
24 during COVID. I'll give you one example.

1 A young mother, at home, trying to do
2 her job and two children doing schoolwork.
3 This is very typical. And they only have
4 satellite. And the mother's out there taking
5 the snow off the satellite. They should have
6 fiber.

7 So we shouldn't have a tax that's
8 discouraging the installation of fiber. And
9 I commend both the Senate and the Assembly
10 for having bills to repeal it. It's in
11 committee, and we encourage you to get those
12 bills out of committee and pass them so we
13 can have more broadband in upstate New York.

14 The other is the sales tax. And
15 you're probably aware that the state is
16 taking local revenues through taking sales
17 tax money and using it to cover the cost of
18 AIM and now also the Distressed Hospital
19 Fund. And this has been a large loss for
20 counties, and I know the Counties Association
21 has testified on this also. And we're afraid
22 this is becoming a trend, and it really needs
23 to stop. We need all of the local sales tax
24 going back to the counties and towns.

1 And you might say, Well, what are our
2 options as a state when we have a gap to
3 fill? Well, in the towns that I represent,
4 when we have a gap, we first of all look at
5 other revenues -- is there another way we can
6 get revenue sources -- and the other is we
7 look at our expenditures. And maybe we can't
8 spend quite as much money and we have to cut
9 back.

10 But this is really becoming a problem
11 for counties and towns to have the state
12 withhold the sales tax that really was, say,
13 a 4 percent local revenue. And we would like
14 that to stop.

15 And I'd be happy to take any questions
16 that you have.

17 CHAIRWOMAN WEINSTEIN: We have -- I'm
18 not sure for who, but we have Assemblyman Ed
19 Ra to ask a question of one of the panelists.

20 ASSEMBLYMAN RA: Thank you.

21 So my question is about an issue that
22 there's obviously two -- the first two
23 panelists don't necessarily agree on, but
24 with regard to this provision regarding the

1 wind and solar projects and assessment on it.

2 Obviously last year with the siting
3 amendments there were concerns from the local
4 level regarding the ability for there to be
5 adequate local input. Obviously there are
6 people who believe there's still adequate
7 local input, but there's also a lot of people
8 that do not believe there are. And there's I
9 think a similar concern here.

10 And I'm just wondering, you know,
11 Mr. Shedler spoke about the lack of detail
12 with regard to this proposal. And if you
13 could speak a little bit more about that.
14 And from the other side of it, if
15 Ms. Reynolds has any thoughts about if there
16 is kind of some common ground that could be
17 found to get to a place that helps achieve
18 some balance there.

19 MR. SHEDLER: Yeah, I -- in fact the
20 association has been working for over a year
21 now with the industry association.

22 We've recently been working with the
23 Department of Tax, we've had dialogue back
24 and forth. In fact, we really recommend that

1 we -- you know, we set up a separate task
2 force to study the different approaches.

3 We were kind of shocked that at the
4 last minute there was an amendment that took
5 out the income approach and just left the
6 discounted cash flow approach. So in fact
7 tomorrow we have a call with the industry on
8 valuation approaches and this kind of cash
9 flow approach.

10 So we are open to discussion. The
11 commissioner has been very transparent in
12 having his agency work with us. We had
13 conversations as recently as yesterday, so --
14 and they're open to dialogue. So I think you
15 pointed out a really good thing is that we
16 should work together, you know, all the
17 groups, and try to hash out different types
18 of methodology. And I think that would be
19 very productive.

20 MS. REYNOLDS: Yup, I will add to
21 that. So I'm again with the Alliance for
22 Clean Energy, and along with the New York
23 Solar Industries Association we had
24 conversations with the Assessors Association,

1 the Association of Towns, and the counties,
2 basically from the end of last year's
3 legislative session through the summer.

4 From the renewable energy developers'
5 point of view, what they would love, like the
6 ideal situation, would be a standard PILOT
7 payment: This much money per megawatt, by
8 region.

9 But in our conversations it became
10 clear that the -- it seemed like the
11 municipal association had a preference of
12 having a standard methodology be published by
13 the state but they still have the ability to
14 choose whether they want to go that route or
15 negotiate a PILOT. And this bill would allow
16 them to do that.

17 I think what Scott is pointing out
18 about having a task force to hash out the
19 details of the methodology is a good idea,
20 and it can happen when this legislation
21 passes. It simply directs Tax and Finance to
22 publish the methodology. There's still a lot
23 of details to work out about what the model
24 would be and what the discount rates would be

1 and how it would vary by technology and how
2 it would vary by location in the state.

3 So all of that isn't laid out in
4 Part X, but having a direction to the state
5 to publish a standard methodology that could
6 serve as the foundation for negotiations of
7 PILOTs I think would push this towards less
8 lengthy debates and more standard tax
9 treatment across the state.

10 ASSEMBLYMAN RA: Thank you.

11 CHAIRWOMAN WEINSTEIN: Thank you.

12 We can go to Sandy Galef, our
13 Real Property Tax chair.

14 ASSEMBLYWOMAN GALEF: And I have to
15 apologize, I got myself off when Scott was
16 talking. I'm sorry, Scott, I pushed the
17 wrong button and there I was.

18 Anyway, so a question for Scott, a
19 couple of questions. It seems like with this
20 issue of the renewable energy in the budget,
21 we really probably -- it seems to change, and
22 it changed with the 30-day amendment. It
23 would seem like we could take that out of the
24 budget, resolve the issue, and then pass the

1 legislation at another time. Is that
2 something that --

3 MR. SHEDLER: Yeah, that's exactly --
4 I think you really can't pass -- you're
5 totally right, Chair Galef, you can't pass
6 legislation without knowing what you're going
7 to get. You know? Let's work together and
8 work something out and maybe get legislation
9 later. That's a great idea.

10 ASSEMBLYWOMAN GALEF: Okay. Mobile
11 homes, do you have any position on the mobile
12 home legislation, sending the check directly
13 to the renter of mobile homes?

14 MR. SHEDLER: Yes. In fact we're
15 supporting the amendment and that aspect of
16 the budget, as well as we really think that
17 cooperatives should be included in that as
18 well as mobile homes.

19 ASSEMBLYWOMAN GALEF: Is that doable?
20 I'm just thinking about New York City with
21 all the cooperatives. Is that a doable kind
22 of thing?

23 MR. SHEDLER: That would be a
24 Department of Tax and Finance issue; we do

1 supply them with all the data. I don't know
2 what they supply them with in New York City.

3 ASSEMBLYWOMAN GALEF: Okay. And
4 another question for you is about the value
5 of the State Real Property Tax Board. Do you
6 use them? Do you find constituents do? Is
7 there any value to them?

8 MR. SHEDLER: Well, I think what you
9 had pointed out earlier is it really would
10 make sense, first of all, to legislate or
11 direct them to have virtual meetings. And it
12 definitely is at a disadvantage to only have
13 three members on the board. You know, it's
14 problematic.

15 You know, when I started my career at
16 the town, we actually testified before the
17 board. And if we'd had three members at that
18 time, it would have caused a conflict. So
19 either put five members on the board and
20 allow them to do Zoom and move the agenda
21 along or -- or, if you're not going to do
22 that, then I guess you'd have to go with what
23 the Governor is recommending in his budget.

24 ASSEMBLYWOMAN GALEF: And I do have

1 your statement, but I didn't ask you the
2 question about Enhanced STAR, the changes,
3 and to put everybody in the credit program.
4 Your response?

5 MR. SHEDLER: So the association is
6 very concerned about calendars. So if we're
7 going to do anything, we have to not do it
8 this year. We would have to phase it in.

9 To make a change just is very
10 disruptive to the public, especially the
11 seniors. So if it's -- so it's apparent that
12 they're going to move in this direction, it
13 should be phased in over two years.

14 And that's what we supported on all
15 these amendments, is you really can't adopt
16 something in the year that we're working in.
17 So you adopt a budget in April, we come out
18 with the roll in May. It's just very chaotic
19 for the public, especially now during the
20 issues that we're dealing with.

21 ASSEMBLYWOMAN GALEF: Thank you.

22 MR. SHEDLER: Thank you.

23 CHAIRWOMAN WEINSTEIN: Senator
24 Krueger.

1 CHAIRWOMAN KRUEGER: Thank you.

2 I just want to say to Carolyn Price
3 that I agree with you completely. I think
4 it's one of the most shortsighted things the
5 Legislature's gone along with when the
6 Governor proposed reducing AIM but then
7 replacing it with your own sales tax and then
8 continuing it out an extended period of time.
9 It's such a tiny amount of money for the
10 state, with such enormous impact on endless
11 local governments.

12 And so having sat through all the
13 hearings with your colleagues from other
14 organizations and read their testimonies and
15 met with them, I just wanted to say, you
16 know, we try to do our best every year; we
17 don't always get there. But I think this is
18 going to go down in history as one of the
19 very bad actions we took, ever trying to
20 reduce AIM in the first place, and then
21 exploring pretending we weren't taking your
22 money when clearly we were.

23 So thank you for your testimony.

24 MS. PRICE: Yes. And if I could just

1 say I really appreciate that. And like you
2 said, it's small dollars for the state but
3 it's big dollars -- in the town I live in,
4 last year we lost \$29,000 from that. And
5 right now we're looking for \$36,000 to go
6 toward a large piece of equipment on our
7 highway. If we had that \$29,000 last year,
8 we wouldn't be looking where we are right
9 now.

10 So that just gives you an example, and
11 you understand it completely. Thank you very
12 much.

13 CHAIRWOMAN KRUEGER: Thank you.

14 Thank you, Helene.

15 CHAIRWOMAN WEINSTEIN: Yes, thank you.

16 We have no further questions, so I
17 want to thank the members of this panel for
18 being with us today.

19 And we're going to move on to Panel F,
20 which is Hunger Free America, Joel Berg; DSA
21 Debt and Finance Working Group, Boris Santos;
22 Village Independent Democrats, David Siffert;
23 Youth Alliance for Housing, Asha Avery. And
24 we have, from Panel A -- he has returned to

1 us -- from Tax Justice Network, Yale
2 University, James Henry.

3 So if we can go in that order, that
4 would be appreciated.

5 MR. BERG: Good evening. I'm Joel
6 Berg. I'm the CEO of Hunger Free America.

7 We thank all of you for your public
8 service. We are a national organization, but
9 we're based in New York City and we work
10 statewide.

11 I'll cut to the chase. Hunger was a
12 huge problem before the pandemic -- we
13 sometimes pretend that all of a sudden it
14 came out of nowhere -- but now, in the
15 pandemic, it's a massive crisis. One in four
16 state residents, equaling 4.5 million
17 New Yorkers, face food hardship. In the
18 richest state in the history of the world,
19 one in four of our fellow neighbors don't
20 have enough money to afford food.

21 And frankly, it's just obscene that
22 this happens at the same time we've had an
23 explosion of billionaire wealth aided by
24 massive tax cuts and the lowest federal

1 marginal tax rate in really 100 years. I'll
2 remind everyone that the top marginal tax
3 rate was 91 percent federally when Dwight D.
4 Eisenhower, a good military Republican, was
5 president.

6 The top way to fight hunger in New
7 York and every other state is to better
8 leverage federal nutrition assistance
9 programs. Every dollar spent by the state on
10 outreach for the SNAP program, what used to
11 be called the Food Stamps Program, generates
12 at least \$20 worth of federal funding in the
13 state. This year SNAP benefits will be about
14 \$6 billion in the state -- \$6 billion in the
15 state -- and even increasing that marginally
16 through more outreach would do far more than
17 a zillion food drives and even the important
18 Nourish NY program or the Hunger Prevention
19 and Nutrition Assistance Program.

20 Funding is so little at the state
21 level, we've actually been cut off, us and
22 advocates and funders and program providers
23 around the state, cut off from funding to do
24 outreach for the Women, Infants and Children

1 program for pregnant women and children under
2 5.

3 We've called for \$650 million more in
4 state funding both for outreach and for
5 direct food, but that equals 1/923rd of the
6 net worth of just a few dozen New York
7 billionaires. Let me repeat that. We could
8 massively reduce hunger in New York City by
9 just having a handful of a few dozen people
10 paying almost 1/1000th of their net worth.

11 And I'll just close, there's none of
12 us made it on our own. Every billionaire and
13 millionaire in New York has a workforce that
14 went to public schools. Every billionaire
15 and millionaire in New York has their goods
16 and services provided over public roads,
17 through public airports, through public
18 ports. Every billionaire and millionaire in
19 New York benefits from subsidized or free
20 drinking water. The idea that we're going to
21 create this myth that they made it on their
22 own and somehow we're being mean to them, or
23 that this is about revenge -- when this is
24 about patriotism, this is about doing what's

1 right for our neighbors. This is about
2 putting on notice all the people who claim to
3 be faith-based advocates that let's follow
4 and practice what we preach and make sure the
5 wealthy pay their fair share so we don't have
6 4.5 million New Yorkers go hungry.

7 Thank you.

8 CHAIRWOMAN WEINSTEIN: So Boris
9 Santos?

10 MR. SANTOS: Can everyone hear me?
11 Great.

12 I'd like to begin by pointing out the
13 fact that nobody from the Division of Budget
14 was present today or throughout this budget
15 process to give testimony, from what I have.
16 It's important to highlight this because we
17 cannot realize a progressive taxation code at
18 the state level, we cannot live up to a
19 robust democratic state if we don't have
20 critical executive agencies engaging in our
21 process of checks and balances.

22 This is even more important in the
23 light of information we have with the nursing
24 home situation. I'll leave that at that.

1 But the public's mistrust of
2 government will continue even in a post-Trump
3 era precisely because of actions such as
4 DOB's. Mama always told me the number-one
5 rule in life is to show up, and that is why
6 I'm here. And I am disappointed that the DOB
7 is not.

8 With that said, my name is Boris
9 Santos and I am a member of the Democratic
10 Socialists of America Debt and Finance
11 Working Group. The Debt and Finance Working
12 Group is comprised of financial and economic
13 experts -- an asset manager, a tax lawyer, an
14 employee of one of the market indices,
15 myself, a former state staffer, and others
16 working alongside -- David, as well, who's
17 coming after me -- working alongside to help
18 create the Invest in Our New York Act.

19 And I'm here today to demand that your
20 one-house budget proposals, both of them
21 contain progressive revenue options that
22 raises taxes on high-income earners, on
23 wealth and on corporations, like the Invest
24 in Our New York Act, in order to fund more

1 than that which we will receive in our state
2 coffers from President Biden's American
3 Rescue Plan.

4 The needs of our state are great and
5 were great since before this pandemic. And
6 I'll challenge anyone to say that even
7 throughout federal funding, every one of
8 their constituents will be served, everyone
9 will be contained in their place of
10 commercial business or their residence.

11 The Invest in Our New York Act was
12 created knowing that since our current
13 Governor has taken office, and especially
14 during Trump's reign, our state has not been
15 progressively bold in the area of taxation.
16 This becomes more frustrating knowing that we
17 are one of the states that leads in income
18 and wealth inequality. The tax burden
19 imposed by the state on the top 5 percent in
20 our state has decreased instead of increasing
21 in the last decade, and yet our state gross
22 domestic product has increased from
23 \$1.4 trillion to roughly \$1.8 trillion in
24 that same decade.

1 In the area of PIT, personal income
2 taxes, increases have been proposed starting
3 with the top 5 percent threshold of filers --
4 that's \$300,000 for single filers and
5 \$450,000 for joint filers and head of
6 households. Starting at this threshold is
7 critical, especially relative to the
8 Governor's extremely flawed PIT proposal,
9 which begins increases at the 0.15 percent
10 level for tax filers -- 0.15 percent.

11 It makes no sense to raise flags
12 publicly, as the Governor has done, about how
13 a small few taxpayers bear more than half of
14 the personal income tax load in our state,
15 and then propose a temporary surcharge that's
16 tied to a smaller few.

17 The Invest in Our New York proposal
18 for PIT can be characterized as displaying
19 the following attributes: Increases starting
20 at the top 5 percent, as mentioned; more
21 progressivity in the form of increases to
22 newly constructed brackets. If you
23 cross-compare the combined New York City and
24 New York State PIT rate to both Hawaii and

1 California, they tax more, beginning at the
2 200,000 to 1 million range. Zohran Mamdani,
3 an Assemblymember, pointed that out.

4 And it should be permanent. I as well
5 as others fear that the state is labeling
6 increases to specific areas of the budget due
7 to federal funding, but it's not accounting
8 for any potential hole following the
9 injection of federal dollars to those areas
10 in latter years.

11 CHAIRWOMAN WEINSTEIN: Thank you --

12 MR. SANTOS: I will leave it at that.
13 My testimony is meant to serve as a resource
14 for legislators and includes charts as well;
15 the Empire Center is not the only one.

16 I do think we need to -- just to
17 finish up, we need a cap on unearned income
18 tax surcharge, the corporate tax needs to be
19 increased, et cetera. Thank you.

20 CHAIRWOMAN WEINSTEIN: Thank you. We
21 need to move on.

22 David, yes, why don't you go forward
23 now.

24 MR. SIFFERT: Thank you, Chair

1 Weinstein, Chair Krueger, members of the
2 Finance and Ways and Means committees.

3 My name is David Siffert. I'm chair
4 of the Legislative Affairs Committee of the
5 Village Independent Democrats. I used to
6 work as a tax attorney at Gibson Dunn &
7 Crutcher; I currently work as the director of
8 research and projects at the Center on Civil
9 Justice at NYU School of Law, though I'm not
10 here in that capacity. I'm here for the
11 Invest in Our New York Act.

12 The backbone of our state's revenue is
13 the personal income tax. There's a good
14 reason for that: It's efficient and it's
15 easy to administer. There's also substantial
16 evidence that when you increase the personal
17 income tax, you increase revenue. Some
18 people do move out of state to avoid the tax,
19 but the amount of money you lose from them is
20 vastly exceeded by the more money you receive
21 from folks who remain. And I have cited to
22 multiple studies backing that up in my
23 written testimony.

24 Moreover, right now wealthy people

1 understand the extreme needs in New York in
2 response to this crisis and they're willing
3 to pay a higher tax to provide for them.
4 There are many wealthy New Yorkers, but we
5 cannot hold our state hostage to the cruel
6 few who would move in order to avoid helping
7 their suffering neighbors.

8 Beyond the PIT, the other tax I want
9 to highlight is the inherited wealth tax, or
10 heirs tax. This is a tax that often gets
11 more pushback than other taxes, but in my
12 opinion that pushback is substantially more
13 irrational.

14 One concern we often hear is double
15 taxation. First, our system is built on
16 double taxation. We tax corporate profits,
17 and then we tax that money again as
18 dividends. We tax personal income, and then
19 we tax that money again when you spend it on
20 goods via the sales tax.

21 The reason for this is because the
22 amount of times money is taxed is completely
23 irrelevant. Two 10 percent taxes are
24 economically and mathematically

1 indistinguishable from one 21-percent tax.

2 One can object that something is taxed at too
3 high of a rate, but one cannot logically
4 object that something is taxed too many
5 times.

6 More importantly, much of wealthy
7 estates is actually never taxed. Our capital
8 gains system only taxes gains upon sale or
9 disposition. When someone dies and passes
10 along an asset, it gets what's called the
11 stepped-up basis. This means that any
12 unrealized capital gains are wiped out upon
13 death and never paid. For wealthy people,
14 this is often the bulk of an estate, so an
15 estate tax is truly the first and only tax on
16 much of the wealthiest estates.

17 The other argument we hear against
18 estate tax is that, again, it will encourage
19 people to move. But, like with the PIT,
20 there's hard evidence that indicates that
21 when you increase estate taxes, you increase
22 tax revenue. This is because of a number of
23 different reasons, one of which is that it's
24 hard to avoid the estate tax; you don't know

1 when you're going to die. Another reason is
2 that people that are likely to move are
3 likely to be elderly and retired, and so when
4 they do move you lose substantially less
5 income for your income taxes.

6 And then the last thing to be said
7 here is that the heirs tax that we have
8 written is specifically targeted to avoid
9 this kind of avoidance. The bill creates
10 three new taxes -- an inheritor tax, a giftor
11 tax and a giftee tax. There are rebates to
12 prevent double payments, but combined they
13 create a comprehensive system such that the
14 estate tax cannot be dodged simply by moving
15 away or giving away your money during your
16 life.

17 Overall, the inherited wealth tax is
18 likely to be the most progressive of the
19 proposed taxes and the one with the fewest
20 risks of lost revenue due to tax avoidance.
21 So I strongly encourage you to incorporate it
22 into the budget.

23 Thank you.

24 CHAIRWOMAN WEINSTEIN: Thank you.

1 Asha Avery next.

2 MS. AVERY: Hi. My name is Asha Avery
3 and I am with Youth Alliance for Housing,
4 which is an organization that was founded
5 around a year ago, right before the pandemic,
6 as a coalition, kind of, of different
7 New York City public school students or
8 former New York City public school students
9 who were working with different equity groups
10 within the city and kind of wanted to
11 highlight housing as a focus.

12 Most of what we've been doing over the
13 last year has been a little bit scattered
14 because of the nature of the pandemic and not
15 being able to necessarily meet and come to
16 big events. So most of what we've been doing
17 has been directly looking at people,
18 specifically New York City public school
19 students who are needing help with housing or
20 need help with food or transportation or
21 different kinds of just things that a lot of
22 people were getting before through their
23 schools and are now, because of the pandemic,
24 unable to access them.

1 A few months ago we started working
2 with the Invest in Our New York Act and
3 joined the steering committee, and I'm
4 testifying today really to kind of highlight
5 that these kinds of tax increases will have
6 direct and profound effects, not just broadly
7 in terms of revenue for the state, but also
8 in the people's lives of the most vulnerable
9 people in our state and the people who our
10 state is most supposedly focused towards
11 helping.

12 So in my written testimony most of
13 what I shared was the story of one of our
14 other cofounders who became homeless in her
15 junior year of high school -- and, although
16 not during the pandemic, she does talk about
17 how the pandemic kind of created like a
18 worsening situation, not just for her but
19 mostly for the people around her. And about
20 how like although she was homeless,
21 obviously, she was still going to school.
22 Her classmates didn't necessarily know that
23 she was homeless. The idea of what like
24 homelessness looks like and how you -- if

1 you're still staying somewhere are you still
2 homeless, all of those things kind of -- the
3 mental effect that that had on her. And also
4 how just like her family was so unable to get
5 resources through the state because of all of
6 the budget cuts that have been happening over
7 the last few years, and also just the lack of
8 money that the state has to be able to
9 provide resources for people who are really
10 vulnerable and really need help.

11 People who are attending public
12 schools, even in public schools that are the
13 best in the city or the best in the state,
14 some of the best in the country -- 10 percent
15 of our students in all of the public schools
16 in New York City are homeless, and those
17 students need to go to school and show up in
18 the same way that we expect all of our other
19 students to show up. And when they're not
20 able to have support or there's no way for
21 the government to come with a shelter
22 system -- they can't go to shelters because
23 they're seen as unsafe, they can't
24 necessarily be helped through food stamps or

1 through other things because qualifications
2 are very difficult to meet.

3 And all this really just leads back to
4 the fact that the state has all this money
5 that we could be generating in tax revenue
6 through a lot of the bills that are in the
7 Invest in Our New York Act and many other
8 things, and it's more that we can't say that
9 these people are less important than a few
10 extra thousand or hundred or whatever dollars
11 on top from other -- from wealthier
12 individuals.

13 CHAIRWOMAN WEINSTEIN: Thank you.

14 And we go to Mr. Henry.

15 MR. HENRY: Good evening, everyone.
16 I'm very impressed with your tenacity here.
17 And I'm going to talk a little bit about the
18 stock transfer tax rebate repeal.

19 We put together a coalition in the
20 last six months of unions, progressive groups
21 like NYPIRG, quite a few economists -- more
22 than a hundred. I find most economists love
23 this idea of a stock transfer tax rebate.

24 The business is already on the books,

1 folks. It's been on the books since 1905.
2 We can tinker with its precise methodology,
3 but the basic reasons to support this idea
4 is, first of all, it's not a theory. It just
5 plain works. It raises a heck of a lot of
6 revenue, at a tax rate on investors that is
7 1/80th of the 8 percent that New Yorkers
8 already pay online and in retail stores every
9 day.

10 It is simple to collect and enforce.
11 Contrary to myth, it doesn't depend on where
12 the servers or the clouds are located, any
13 more than taxing Amazon does.

14 Its own history clearly demonstrates
15 the revenue raising success. A 1905
16 Republican governor, protege of Teddy
17 Roosevelt, introduced this tax. Wall Street
18 was aghast. The New York Times editorialized
19 about it, said, you know, everybody will
20 leave and go to New Jersey, it won't raise
21 any money. Three months later they had to
22 retract that editorial because Governor
23 Higgins' stock transfer tax actually worked
24 and it balanced the budget.

1 That was the reason it was kept in
2 place for the next 77 years until a
3 Democratic governor, Carey, under pressure
4 from Wall Street during the late '70s,
5 decided to repeal it. By 1982 it had been
6 repealed.

7 If we'd kept it in place -- the rebate
8 still has actually been on the books
9 throughout this period. The Department of
10 Finance makes estimates every year. The
11 total is \$345 billion that we have rebated to
12 Wall Street. Eighty percent of shares on
13 Wall Street are owned by the top 10 percent.
14 We could have done many things with all that
15 money.

16 The tax collected, successfully,
17 nearly \$100 billion during the 77 years that
18 it was in place.

19 It's also a tax on the kind of
20 speculation that Janet Yellen just warned
21 about yesterday. A lot of trading on
22 Wall Street is completely nonproductive --
23 something like 80 percent is high-frequency
24 trading involved with 10 minutes in and out.

1 The players involved in that are making a
2 killing front-running, making the market less
3 efficient.

4 Any pension fund should be concerned
5 about being a long-term investor. But
6 pension funds in some cases have been
7 captured by Wall Street interests. Last year
8 the top three pension funds in New York paid
9 a grand total of a billion dollars of fees to
10 external managers. This tax would cost them
11 maybe \$50 million a year while it's bringing
12 in upwards of 15 to \$20 billion a year in
13 revenue.

14 All of the other proposals that you've
15 considered here today -- marijuana, taxing
16 sports gambling, a bunch of other things --
17 even the millionaire's tax, which I
18 support -- are going to raise a fraction of
19 the amount of money that simply stopping the
20 rebate would raise instantaneously.

21 And you're not alone in this. This is
22 something that you have to do now, because we
23 now have a Biden administration. Jared
24 Bernstein, a key advisor to President Biden,

1 supports a national financial transactions
2 tax. But all the revenue from that tax would
3 go into the Federal Treasury. We're talking
4 about right now the average trade on the
5 NASDAQ Exchange last year was \$8800. The tax
6 as written today would be one nickel on every
7 hundred dollars. That's \$8.80 for an \$8400
8 trade -- 0.1 percent.

9 CHAIRWOMAN WEINSTEIN: Thank you.

10 We do have a number of questions. And
11 first on the Assembly side,
12 Assemblyman Mamdani, for three minutes.

13 ASSEMBLYMAN MAMDANI: Thank you so
14 much, Chair. And thank you for the stamina
15 of running this entire show. I know it's a
16 long, long day.

17 I wanted to thank all of the panelists
18 for speaking, and I wanted to focus on
19 Mr. Santos.

20 So first of all, thank you very much
21 for your testimony. I wanted to thank you,
22 the Debt & Finance Working Group that has put
23 in so many hours, weeks, months of time to
24 create a vision for our state that is one

1 that is truly just. And I wanted to commend
2 you for your testimony.

3 And it seemed like you had a little
4 bit more to say, and I would be very
5 interested in hearing, with my 2 minutes and
6 23 seconds that are left, to see if you would
7 be able to illuminate a little bit more of
8 the points that you were making and where you
9 think we should take our state with regards
10 to our fiscal policy.

11 MR. SANTOS: Yeah. I think just
12 beyond just the personal income tax proposal
13 that I mentioned, and the areas --
14 permanence, progressivity, further
15 progressivity -- and also increasing starting
16 at the top 5 percent, we need a capital gains
17 or unearned income tax.

18 I think it's simple. We as a state
19 could be leading in taxing unearned income
20 more than earned income, through an
21 additional surtax. This is imperative,
22 knowing that many give long-term capital
23 gains tax breaks, especially at the federal
24 level. I think ultimately it would be best

1 to decouple any additional capital gains
2 surtax from the federal rates; there's a
3 little deviation there.

4 But we know that in proportion to most
5 of the income derived from the top 5 percent,
6 most of that comes from capital gains or
7 unearned income, right? And especially after
8 the \$1 million income threshold. That was
9 pointed out in Fiscal Policy Institute's
10 current report.

11 With corporate taxes, I think it's
12 clear we have ample room to increase the tax
13 burden on the profits of corporations, given
14 Trump's giveaways. But also we have
15 decreased taxes in this area in the last
16 decade with Cuomo's administration, right, in
17 the 2015 fiscal year budget. We're
18 5.5 percentage points behind the State of
19 Iowa in corporate taxes, so there's ample
20 room there.

21 On the FTT, I think this is going to
22 come down to a matter of political will --

23 ASSEMBLYMAN MAMDANI: I'm sorry, did
24 you say FTT or the --

1 MR. SANTOS: Yeah. The financial
2 transaction tax. And I'll mention the
3 difference between the stock transfer tax
4 too.

5 But I think the FTT is going to come
6 down to a matter of political will. We need
7 cooperation with DTF and DOB to best
8 administer this tax, knowing that the
9 industry will not cooperate and they oppose
10 any form of an FTT. Just like someone
11 mentioned, they oppose any form of any
12 revenue, progressive revenue, tax increases.
13 Boy, to be the Party of No today.

14 But nonetheless, the FTT is also
15 superior to the STT, because the STT is
16 modeled on a faulty administrative model, an
17 antiquated vision of how the market once
18 worked on on-the-floor trading -- versus what
19 the FTT tackles. It tackles it all. And it
20 comprehensively taxes all financial
21 instruments, not just equity securities --
22 also debt securities and also derivatives.

23 ASSEMBLYMAN MAMDANI: Thank you very
24 much, Mr. Santos. My time is up. I will

1 yield back to the chair.

2 CHAIRWOMAN WEINSTEIN: Thank you.

3 Senate, do you have --

4 CHAIRWOMAN KRUEGER: I saw Julia
5 Salazar with her hand up before, but now we
6 may have lost her. I don't hear her piping
7 up, so --

8 THE MODERATOR: We're trying to get
9 her video and audio, but -- oh, here we go.

10 CHAIRWOMAN KRUEGER: Oh, there you
11 are.

12 CHAIRWOMAN WEINSTEIN: There she is.

13 CHAIRWOMAN KRUEGER: Hi, Julia.

14 SENATOR SALAZAR: Hi. Although you
15 actually can remove me from the stack. I
16 appreciate it.

17 CHAIRWOMAN KRUEGER: Oh, okay. Okay,
18 never mind. So no, it's the Assembly then
19 again, Helene.

20 CHAIRWOMAN WEINSTEIN: Okay. We do
21 not have anyone else, so I want to thank the
22 panelists for sticking with us for today, and
23 we're going to move on to our final -- and
24 actually it's not really a panel, it's a

1 final individual --

2 MR. HENRY: Could I just say one --
3 one thing?

4 CHAIRWOMAN WEINSTEIN: Okay.

5 MR. HENRY: Yeah, thank you.

6 The point about the national effort is
7 that if New York State doesn't act on the two
8 bills that have actually got 55 sponsors to
9 repeal the stock transfer tax rebate, then
10 Washington is going to take all the money.

11 So it's -- the EU is moving on this,
12 Washington is moving on it. It's up to you
13 to move before you lose the opportunity.

14 CHAIRWOMAN WEINSTEIN: Yup, we did
15 hear that point before. Thank you.

16 MR. HENRY: Thank you.

17 CHAIRWOMAN KRUEGER: Thank you.

18 CHAIRWOMAN WEINSTEIN: Okay, so thank
19 you all for being here, and now we're going
20 to ask John Crepps, from Element Fleet
21 Management, to have three minutes to present
22 his issues to the committee.

23 MR. CREPPS: Great, thank you.

24 Good evening. My name is John Crepps,

1 and I'm the director of sales tax for Element
2 Fleet Management. And Element is a
3 commercial leasing company that provides
4 leases and related services to a lot of the
5 U.S. and New York to a wide range of
6 customers, including not-for-profits,
7 government entities, as well as other local
8 businesses and corporations.

9 We're actually the largest fleet
10 management company in North America, and
11 currently in New York we have over
12 22,000 vehicles on the road and being used by
13 your local businesses.

14 Commercial auto leases are very unique
15 because we actually incentivize the customer
16 to keep the vehicle in good condition and
17 keep it well-maintained. So when the
18 customer turns in the lease, if the vehicle
19 is actually sold for a price that's less than
20 the expected value, we will charge that
21 customer extra rent -- so additional rent.

22 And conversely, if the vehicle is
23 actually sold for a higher than expected
24 value amount and they've taken good care of

1 the vehicle, then we will give them a refund
2 of rent.

3 Currently New York tax law is silent
4 on the treatment of these rent adjustments,
5 but the Department of Taxation and Finance
6 has taken the position that the additional
7 rent is subject to sales tax but a refund of
8 rent should not result in a refund of related
9 tax or a credit of related tax. And New York
10 is the only state that treats negative and
11 positive rent adjustments differently.

12 So the lack of clarity in law and the
13 disparity in treatment by {Zoom freeze} has
14 caused a lot of audit -- time-consuming audit
15 and costly audit issues as well as complexity
16 in trying to be in compliance with sales tax
17 law, just based on how rent is taxed.

18 So to remedy this situation, Element
19 supports allowing that fleet leasing
20 companies actually pay sales tax up front on
21 the purchase price of vehicles -- much like
22 citizens or other businesses are able to
23 do -- on our purchases for lease, as
24 reflected in Senate Bill 3926 and

1 Assembly Bill 5401, and respectfully request
2 that this language be included in the
3 Governor's budget.

4 Allowing fleet leasing companies to
5 pay sales tax up front on the purchase of
6 vehicles would actually accelerate revenues
7 for New York and increase the tax base. And
8 based on our calculations and projections,
9 New York would actually have a positive
10 fiscal impact of at least \$17 million, if
11 this was enacted, in the first four years.

12 And again, the purpose of the
13 legislation is to ensure fleet management
14 companies can simplify and streamline their
15 sales tax compliance, provide clarity in law,
16 avoid untimely and costly audits, as well as
17 provide a positive fiscal impact to the
18 state.

19 CHAIRWOMAN WEINSTEIN: Thank you.
20 Thank you for being here. I do not believe
21 we have any questions, but we will certainly
22 look at the issue that you've raised.

23 MR. CREPPS: Okay, thank you.

24 CHAIRWOMAN WEINSTEIN: Thank you.

1 I want to thank my colleagues; my
2 cochair Liz Krueger for being with us here
3 today; Mr. Temporary Cochair of the hearing,
4 who had a very limited role -- but Kevin
5 Cahill, thank you for pinch-hitting for me
6 while I had to go to some -- take care of
7 some other budget issues.

8 THE MODERATOR: I believe Senator Liu
9 has his hand raised. Sorry.

10 CHAIRWOMAN WEINSTEIN: Okay, Senator
11 Liu needs the last word. So Senator Liu, why
12 don't you --

13 SENATOR LIU: I don't need the --

14 CHAIRWOMAN WEINSTEIN: No, I'm going
15 to still have the last word, so why don't
16 you --

17 SENATOR LIU: I don't need the last
18 word. I just wanted to thank you and
19 Chair Krueger. You sure know how to throw a
20 party. Can't wait for the next one.

21 (Laughter.)

22 CHAIRWOMAN WEINSTEIN: Okay. Okay.
23 Thank you, Senator Liu.

24 So this does conclude the joint

1 hearing -- joint Ways and Means and
2 Senate Finance Committee hearing on Taxes.

3 The joint committees will reconvene
4 Thursday morning at 9:30 for the last of our
5 joint budget hearings, regarding the Health
6 portion of the budget. We look forward to
7 seeing you all there.

8 CHAIRWOMAN KRUEGER: Yes, indeed.

9 Thank you. Get home safe, everyone.

10 CHAIRWOMAN WEINSTEIN: Bye now.

11 CHAIRWOMAN KRUEGER: Thank you. Bye.

12 (Whereupon, the budget hearing
13 concluded at 7:16 p.m.)

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