

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
2023-2024 EXECUTIVE BUDGET
5 ON TAXES

6 -----

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

9 February 9, 2023
3:16 p.m.

10

11 PRESIDING:

12 Senator Liz Krueger
Chair, Senate Finance Committee

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

15 PRESENT:

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

17

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

19 Assemblywoman Jaime R. Williams
Chair, Committee on Real Property Taxation

20

Senator Andrew Gounardes
21 Chair, Senate Committee on Revenue and Budget

22 Assemblyman Brian D. Miller

23 Senator Dean Murray

24

1 2023-2024 Executive Budget
Taxes

2 2-9-23

3 PRESENT: (Continued)

4 Assemblywoman Inez E. Dickens

5 Assemblyman Erik M. Dilan

6 Assemblywoman MaryJane Shimsky

7 Assemblyman Brian Manktelow

8 Assemblyman Zohran K. Mamdani

9 Assemblyman John T. McDonald III

10 Senator Peter Oberacker

11 Assemblyman Kenneth Zebrowski

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1 2023-2024 Executive Budget
 Taxes
 2 2-9-23

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4 LIST OF SPEAKERS

5 STATEMENT QUESTIONS

6 Amanda Hiller
 Acting Commissioner
 7 NYS Department of Taxation
 and Finance 8 15

8 Emily Eisner
 9 Economics Ph.D.
 NYC Democratic Socialists

10 of America
 -and-

11 Charles Khan
 Coordinator, State and
 12 Local Tax Campaigns
 Center for Popular Democracy

13 -and-
 Nathan Gusdorf
 14 Executive Director
 Fiscal Policy Institute 94 105

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1 CHAIRWOMAN WEINSTEIN: Good afternoon.

2 We are about to start the second
3 hearing of today, so good afternoon. I am
4 Helene Weinstein, chair of the New York State
5 Assembly's Ways and Means Committee and
6 cochair of today's hearing.

7 Today we begin the fifth in a series
8 of hearings conducted by the joint fiscal
9 committees of the Legislature regarding the
10 Governor's proposed budget for fiscal year
11 2023-'24.

12 The hearings are conducted pursuant to
13 the New York State Constitution and the
14 Legislative Law.

15 Today our joint committees will hear
16 testimony regarding the Governor's proposed
17 budget for Taxation.

18 Let me take a moment now to introduce
19 the members from the Assembly, and then
20 Senator Krueger, the chair of Senate Finance,
21 will introduce the members from her
22 conference.

23 So we have with us the chair of our
24 Real Property Tax Committee, Assemblywoman

1 Williams, and then Committee Members Dickens,
2 Shimsky, Dilan, Zebrowski, and Mamdani. And
3 Mr. McDonald, who was with us at the prior
4 hearing, is also here.

5 Senator Krueger?

6 CHAIRWOMAN KRUEGER: Thank you so
7 much.

8 I'm joined by Senator Gounardes, our
9 chair of Taxation and Budget.

10 And I'll ask my colleague, Senator Tom
11 O'Mara, the ranker on Finance, to introduce
12 his team.

13 SENATOR O'MARA: Thank you,
14 Chairwoman.

15 We have Senator Dean Murray and
16 Senator Peter Oberacker.

17 CHAIRWOMAN WEINSTEIN: Assemblyman Ra?

18 ASSEMBLYMAN RA: Thank you.

19 We have Assemblyman Brian Miller, our
20 ranker on the Real Property Tax Committee,
21 and Assemblyman Manktelow, a member of the
22 Ways and Means Committee.

23 CHAIRWOMAN WEINSTEIN: Thank you.

24 So just for those of us who -- those

1 people who have -- both witnesses and members
2 who haven't attended prior hearings, just a
3 reminder about ground rules. Witnesses, the
4 governmental witness, our tax commissioner,
5 has 10 minutes. Nongovernmental witnesses,
6 who will be in a panel later, have three
7 minutes each.

8 Then the time limits for questions and
9 answers after the presentations: The chairs
10 of the relevant committees will have
11 10 minutes and a second round of three
12 minutes, if needed. The ranking members of
13 these committees will get five minutes each.
14 And all other members who are a member of the
15 relevant committees will get three minutes
16 each.

17 Just a reminder to all the witnesses
18 that your written testimony has been
19 submitted to the legislators in advance, so
20 we ask that you do not read your written
21 testimony to us or you will find out that
22 three minutes -- or 10 minutes -- goes
23 awfully fast when you read, and you never get
24 to your end.

1 And then just to the legislators who
2 are here, again, as we've said before, let
3 either myself or Senator Krueger know, or
4 your ranker know, if you wish to question a
5 witness or a panel of witnesses. After the
6 opening remarks of each witness or panel, we
7 will be closing the list.

8 And just for everyone, keep an eye on
9 the time clock, either the one that's just
10 the count-down clock or the one that has the
11 red -- we'll have the green light on when the
12 time starts. The yellow light will come on
13 when there's a minute left, and you'll hear a
14 beep. And then the red light will be several
15 beeps, and we will cut you off if you keep
16 going.

17 So with that, I'm pleased to
18 welcome -- oh, and just in addition, for both
19 witnesses and the participants and any
20 audience members, there are no PowerPoint
21 presentations, placards, or signs permitted
22 in the hearing room by either witnesses or
23 our colleagues.

24 So now, with that, I'm happy to invite

1 the commissioner of Tax to -- the New York
2 State Department of Tax and Finance --
3 actually you're still acting commissioner,
4 right?

5 ACTING COMMISSIONER HILLER: Yes.

6 CHAIRWOMAN WEINSTEIN: -- so Acting
7 Commissioner Amanda Hiller, who's the acting
8 commissioner and general counsel, to present
9 her testimony.

10 And you have 10 minutes, and then I'm
11 sure there will be some questions.

12 ACTING COMMISSIONER HILLER:

13 Absolutely.

14 Can everyone hear me? Is this okay?

15 Yes? Good.

16 Good afternoon, Senator Krueger --

17 CHAIRWOMAN WEINSTEIN: Just hold it --

18 we've been having some issues with the mics.

19 Just hold it --

20 ACTING COMMISSIONER HILLER: Closer?

21 CHAIRWOMAN WEINSTEIN: You got it.

22 ACTING COMMISSIONER HILLER: Closer

23 closer? Okay?

24 Good afternoon, Senator Krueger,

1 Assemblymember Weinstein, and members of the
2 fiscal and tax committees. I'm Amanda
3 Hiller, acting commissioner and general
4 counsel at the Department of Taxation and
5 Finance. Thank you for this opportunity to
6 discuss the department and Governor Hochul's
7 2024 Executive Budget.

8 As we move forward to fiscal year '24,
9 there are plenty of risks on the horizon.
10 U.S. real GDP fell two consecutive quarters
11 in the first half of 2022, prompting concerns
12 that the U.S. economy might already be in a
13 recession. Real GDP rebounded by 3.2 percent
14 in the third quarter, but the recession fears
15 persisted throughout the year.

16 To address inflation, the Federal
17 Reserve tightened monetary policy at the
18 fastest pace on record. And the Division of
19 Budget now expects the national economy to
20 enter a downturn in 2023, constraining
21 U.S. Real GDP growth to 0.5 percent this
22 year.

23 Fortunately, Governor Hochul has
24 positioned the state well. We have an

1 \$8.7 billion surplus, which is primarily due
2 to continued strength in tax receipts. In
3 October 2021, the Governor committed to
4 building the state's reserves to ensure that
5 it could honor current commitments through
6 good times and bad. The extraordinary gains
7 in tax receipts have been directed to
8 accomplish that goal. By the end of fiscal
9 year '23, the state will have boosted its
10 reserves by over \$20 billion since fiscal
11 year '20.

12 Even as tax receipts continue to show
13 strength in the current year, DOB has
14 downgraded its expectations for the economic
15 outlook twice since the fiscal year '23
16 Enacted Budget Financial Plan was published
17 just nine months ago. DOB is now forecasting
18 a mild national recession in the first half
19 of calendar year '23, with U.S. real output
20 projected to decline, followed by a recovery
21 in the latter half of the year.

22 At the state level, key economic
23 drivers of tax receipts have been revised
24 sharply downward. Total wage growth is now

1 expected to slow to 2.4 percent through
2 fiscal year '23 and 2.3 percent in fiscal
3 year '24, significantly lower than the
4 May 2022 forecast. In particular, bonus
5 income is expected to decline by 27 percent
6 from the fiscal year '22 peak.

7 Governor Hochul recognizes these
8 economic trends and has proposed a
9 responsible budget that makes targeted
10 investments in housing, crime prevention, and
11 energy affordability, while also addressing
12 the MTA "fiscal cliff" and maintaining other
13 crucial funding and support for New Yorkers.

14 The Governor's \$24 billion commitment to
15 education remains intact: The budget fully
16 phases in Foundation Aid and includes
17 \$125 million for pre-K and \$250 million for
18 learning loss tutoring programs. There is
19 also a \$1 billion investment to provide
20 healthcare, shelter, and other critical
21 services to asylum seekers, and \$1.3 billion
22 in economic development incentives to grow
23 our economy and provide opportunities for
24 New Yorkers.

1 Importantly, the Executive Budget
2 accomplishes all of this while remaining true
3 to Governor Hochul's pledge to not increase
4 income taxes on New Yorkers. Many of the tax
5 proposals in this budget address issues of
6 equity and fairness, including ensuring that
7 homeowners receive any excess proceeds from
8 tax foreclosure auctions.

9 This budget will also incentivize
10 employers to help reduce the costs of daycare
11 for working parents, and it will improve the
12 effectiveness of tax credits for working
13 farmers, who often struggle with liquidity
14 due to the capital-intensive nature of
15 farming.

16 We will also continue the current tax
17 rate on those corporations making the most
18 money, which even at this level remains
19 competitive relative to rates in other states
20 and, in particular, to our neighbors.

21 Other proposals in the budget conform
22 us to federal law or clarify the intent of
23 initiatives that the Governor and Legislature
24 previously enacted together.

1 This time last year I spoke of the
2 scale of Tax Department operations, a scale
3 that never ceases to impress me. Last year
4 the 3,800 members of Team Tax processed
5 29 million tax filings and closed
6 825,000 audits, as we worked to collect
7 nearly \$160 billion in state and local
8 revenue.

9 These volumes are only possible
10 because we have sophisticated information
11 technology platforms. These systems were
12 world-class when they came online, but that
13 was over 30 years ago. Worse, the underlying
14 technology is closer to 40 years old.

15 That's why I'm grateful to the
16 Governor and the Legislature for continuing
17 to support the state's efforts to stabilize
18 and modernize the Tax Department's
19 information technology. This critical IT
20 modernization effort will also significantly
21 improve the flexibility and interoperability
22 of our systems, helping to ensure tax
23 revenues are effectively collected and
24 processed with fair and equitable outcomes

1 for all of the department's current and
2 future customers.

3 We're working closely with our
4 Office of Information Technology Services
5 partners to fully leverage this opportunity
6 and ensure its success. As we enter the
7 second year of our five-year implementation
8 plan, I'm pleased to report that we are
9 on-track and on-budget.

10 We are also pursuing parallel projects
11 that leverage technology to improve the
12 taxpayer experience. Although we are a
13 technology-driven agency, many of our
14 day-to-day operations are surprisingly
15 old-school. For example, each year we ask
16 hundreds of thousands of taxpayers to mail us
17 documents confirming their eligibility for
18 various tax benefits, which is why I'm
19 excited that we are currently testing a new
20 tool that will allow taxpayers to upload
21 documents to us using their phones.

22 This year we also expect to begin to
23 pilot a project to deliver STAR credits by
24 direct deposit, which will shave several days

1 off the time it takes to deliver this crucial
2 property tax relief to homeowners -- and it
3 will also avoid costly check production and
4 mailing costs. It's just a great efficiency
5 if we can make it work.

6 And we will continue to keep the
7 taxpayer experience front of mind as we
8 explore other opportunities to bring our
9 operations further into the digital age.

10 To conclude, I'm incredibly proud of
11 the work that we're doing at the department,
12 and I'm excited about Governor Hochul's
13 Executive Budget, which will make a real
14 difference in the lives of New Yorkers. I
15 look forward to working with all of you to
16 move these initiatives forward, and I'm happy
17 to take any questions.

18 CHAIRWOMAN WEINSTEIN: Thank you.

19 We'll go first to Assemblymember
20 Williams, chair of our Real Property Tax
21 Committee.

22 ASSEMBLYWOMAN WILLIAMS: Thank you so
23 much. I have a few questions.

24 First, we will start -- does the

1 department know the approximate percentage of
2 eligible homeowners that have not received
3 their rebate credit check?

4 ACTING COMMISSIONER HILLER: Have not
5 received the homeowner tax rebate check?

6 ASSEMBLYWOMAN WILLIAMS: Yes.

7 ACTING COMMISSIONER HILLER: I don't
8 know that number offhand, but I know it's a
9 very small number. And I can explain how
10 that works.

11 We've delivered about 2.4 million
12 checks to homeowners. There is a provision
13 in these laws that relates to the federal
14 taxability of the benefits, and it requires
15 us to ensure that the check that we send does
16 not exceed the tax liability of the property
17 owner. So there are -- we have confidence in
18 most of the checks and can mail them well in
19 advance of tax bills and that final part of
20 the tax cycle. But sometimes we have to wait
21 until we actually get the final tax bills
22 from a local government. And so we've
23 cleared that for most of the year, but in
24 Long Island, in Nassau and then in Suffolk,

1 their tax schedule is later in the calendar
2 year. So we're still clearing some of those
3 ones that are right on the edge.

4 But I think it's in -- a hand -- it's
5 a couple of thousand out of the 2.4 million
6 we've sent.

7 ASSEMBLYWOMAN WILLIAMS: Okay. Also,
8 how are the ADUs assessed for real property
9 taxation purposes at the local level? For
10 example, are they assessed like other
11 residential properties?

12 ACTING COMMISSIONER HILLER: How
13 are -- the accessory dwelling units, ADUs?

14 ASSEMBLYWOMAN WILLIAMS: Yes.

15 ACTING COMMISSIONER HILLER: okay.
16 They're assessed just like any other
17 property. They're assessed based on the
18 value of that property in the marketplace.
19 So a property that has one dwelling unit on
20 the property is going to be assessed based on
21 its value, presumably its value in the
22 marketplace if you put up a for-sale sign up
23 today.

24 And then if there is another dwelling

1 unit on that property, that dwelling unit is
2 going to be assessed as part of the package
3 of that property. You're buying that house,
4 you get an extra unit when you buy that
5 property.

6 ASSEMBLYWOMAN WILLIAMS: Okay. Also,
7 allowing the sales tax exemption for vending
8 machines to expire will put hundreds of
9 vendors out of business. Has Tax and Finance
10 done an analysis of the impact to sales tax
11 revenue for the state if those small
12 businesses cease to exist? And more so, the
13 same challenges that exist for visually
14 impaired vendors, which affect vendors across
15 the board. So why wouldn't you extend the
16 exemption for the whole industry?

17 ACTING COMMISSIONER HILLER: So first,
18 I don't think that the Tax Department has
19 done that specific analysis.

20 I know that historically part of the
21 reason there was an exemption for vending
22 machines is because it was very difficult to
23 program the machine to have an odd amount.
24 You wanted that candy bar for a dollar, and

1 adding another seven cents onto it made it
2 difficult to handle with the cash in vending
3 machines.

4 I believe that the conversation has
5 evolved over the years as many more vending
6 machines move to be cashless, because there's
7 a different opportunity to set the price of
8 the product. And that -- I think that that's
9 part of the ongoing dialogue around the
10 vending machine exemption.

11 I think Governor Hochul is cognizant
12 that the blind and visually handicapped, who
13 are part of OCFS's business program and often
14 are operating the little convenience shops in
15 state office buildings, for example, they are
16 offering -- as the foot traffic in those
17 buildings has gone down, the vending business
18 is increasingly important. And that's why
19 this would extend the vending exemption for
20 that population.

21 ASSEMBLYWOMAN WILLIAMS: Okay. And
22 lastly, does the department have an idea on
23 the number of new seniors who would qualify
24 for the senior citizen's exemption if the

1 definition was to be amended?

2 ACTING COMMISSIONER HILLER: We think
3 that slightly more senior citizens would
4 likely qualify for the exemption. But more
5 importantly, we think that more senior
6 citizens who already qualify for the
7 exemption would be able to successfully apply
8 for the exemption and get that real property
9 tax benefit.

10 The current definition of income in
11 the senior citizen exemption is incredibly
12 complicated, and it does not correspond to
13 lines on your tax return. So senior citizens
14 have to bring extensive documentation to
15 their assessor's office in order to qualify
16 for that exemption. And assessors have been
17 telling us for years that they're concerned
18 that senior citizens aren't claiming the
19 exemption because that lift is really
20 difficult and they have to do it each year.

21 So the proposal to simplify the income
22 definition for the senior citizen exemption
23 is really to align it with lines on the tax
24 return while retaining the core principles

1 that were part of the original definition of
2 income, so that we can help make sure that
3 it's easy for senior citizens to claim.

4 ASSEMBLYWOMAN WILLIAMS: Okay. Thank
5 you, Commissioner.

6 CHAIRWOMAN WEINSTEIN: Senate?

7 CHAIRWOMAN KRUEGER: Thank you.

8 We're starting out with
9 Senator Gounardes for 10 minutes as chair.

10 SENATOR GOUNARDES: Good afternoon,
11 Commissioner. Before I start my questions, I
12 just want to -- in my previous role I was the
13 chairman of the Civil Service Committee and I
14 had the chance to visit the Department of
15 Taxation and Finance. We had a whole tour,
16 got to meet lots of the employees there. And
17 just want to echo your compliments for the
18 hard work they do. It was incredible, the
19 scale and the size and the efficiency of that
20 operation, and it's a testament to those
21 workers. So thank you for acknowledging
22 that.

23 ACTING COMMISSIONER HILLER: Thank
24 you.

1 SENATOR GOUNARDES: I want to -- I
2 have a bunch of questions here.

3 Can you -- a couple of years ago we
4 made changes to the personal income tax rate
5 and the corporate tax rate. Can you speak to
6 the impact of those changes on the budget
7 since those times?

8 ACTING COMMISSIONER HILLER: You know,
9 I don't know offhand what we thought the top
10 corporate tax rate would bring in in revenue.
11 I know that Governor Hochul has proposed to
12 extend it and that we anticipate that it
13 would bring in about \$800 million this year
14 and 1.2 billion next year and 880 the year
15 after. So I would guess that it was probably
16 somewhere around that.

17 Our tax data is -- we have more recent
18 tax data for personal income tax than for
19 corporate tax for a variety of reasons
20 related to when corporations file their
21 taxes. So we have preliminary income tax
22 data through 2021, but we're still working
23 with 2020 and 2019 data for corporate taxes.

24 On the income tax side --

1 SENATOR GOUNARDES: And why is that?

2 ACTING COMMISSIONER HILLER: I think
3 there are a couple of reasons. First, we
4 always each year prioritize finalizing the
5 filing -- what we call the study file for
6 personal income tax. We prioritize that in
7 order to do forecasting for the year.

8 And so we just closed tax year '21.
9 Those were the returns that were filed in '22
10 for tax year '21. We just closed that
11 processing. And we have a preliminary file
12 of that data, and that will evolve over the
13 year as taxpayers that are under audit, when
14 those audits complete, then they'll move into
15 the study file and then we'll get a final
16 study file later this year.

17 But a corporation might have a tax
18 filing year that starts in December, so in
19 December of 2021. Their year ends in
20 December of 2022. They'll be required to
21 file that return for 2021 sometime in 2023.
22 There are multiple extensions that are
23 available. And before you know it, we're in
24 2024.

1 SENATOR GOUNARDES: Gotcha.

2 ACTING COMMISSIONER HILLER: So
3 there's just a little bit of difference of
4 scale.

5 But certainly we're anticipating on
6 the corporate side about 800 million in the
7 first year of the extension. And so I would
8 say we're probably around there in terms of
9 what we brought in under that rate in the
10 first years.

11 SENATOR GOUNARDES: Sure. Thank you.
12 I just want to move on.

13 And can you speak to, you know, the
14 Governor's proposal to extend the corporate
15 tax rate? We're not touching PIT, I
16 understand that. The corporate tax rate
17 proposal, to just extend it for an additional
18 three years. Why three years? Can you speak
19 to how that number was derived? Why not
20 longer, why not shorter? What was the
21 thinking behind that? Especially when we're
22 projecting shortfalls starting next year in
23 the outyears moving forward as we're looking
24 at the entire fiscal financial plan.

1 ACTING COMMISSIONER HILLER: You know,
2 I can't speak to the specific reason to
3 choose three years. I mean, I can speak
4 generally that the notion of having sunsets
5 on legislation, including perhaps tax rates,
6 is to ensure that we have the opportunity to
7 revisit them.

8 There's nothing about extending it for
9 three years that would prevent the Governor
10 and the Legislature from extending it again
11 for an additional three years or making it
12 permanent at that time.

13 I also -- you know, I'm certainly
14 conscious that although we had a strong stock
15 market in 2021 and 2022, the forecasts
16 suggest that we won't see those same trends
17 in 2023 and 2024. So it might be that we are
18 going to be revisiting a number of our tax
19 choices as we -- in the years ahead.

20 SENATOR GOUNARDES: Sure. And I
21 think -- you know, we recognize that there
22 might be some uncertainty ahead. The data is
23 really mixed. You know, there's -- on one
24 hand it says we're going down and then we

1 have the hottest, you know, labor market, you
2 know, in 70 years. Right? So there's a lot
3 of conflicting data out there.

4 I'm concerned, though, when we maybe
5 are a little short-sighted in identifying
6 these things, because this -- we're obviously
7 projecting shortfalls in the outyears based
8 on what we're proposing now. And that
9 determines the frame by which this whole
10 budget is being presented.

11 And if you're presenting it with a
12 doom-and-gloom perspective, well, that limits
13 the choices or perceives to limit the choices
14 that we might have to make or can make. And
15 so I'm concerned about we are self-selecting
16 to narrow our scope and our view here.

17 You mentioned some of the incentives
18 and some of the credits and investments
19 through tax policy the Governor is proposing.
20 Can you tell me what in this budget and
21 through tax policy the Governor is proposing
22 to address childhood poverty?

23 ACTING COMMISSIONER HILLER: I think
24 maintaining our current income tax structure

1 and not increasing taxes on New York families
2 is certainly going to be helping New York
3 families, and that's a central part of
4 Governor Hochul's proposal.

5 But I'm also aware that there
6 currently is a Child Poverty Reduction
7 Task Force that is deliberating about how
8 best to address child poverty going forward.
9 And that's a collaborative effort involving
10 representatives of different state agencies
11 and representatives of organizations that
12 serve families in poverty.

13 And, you know, they haven't made
14 specific recommendations yet out of that task
15 force, and I would anticipate that when that
16 happens, that there will be an effort to
17 ensure that we're moving forward to implement
18 those proposals.

19 SENATOR GOUNARDES: You know, under
20 existing state law we have to halve the rate
21 of childhood poverty by 2030. We're already
22 in 2023. And any expert who studies tax
23 policy and children will tell you that you're
24 not going to get anywhere near that reduction

1 without significantly increasing the size of
2 the child tax credit, providing families
3 assistance.

4 Is there anything in this Governor's
5 proposal that does -- makes any adjustments
6 or increases to the state's child tax credit?

7 ACTING COMMISSIONER HILLER: No. The
8 current -- Governor Hochul's Executive Budget
9 maintains New York's generous Earned Income
10 Tax Credit, Empire State Child Credit, Child
11 and Dependent Care Credit programs. We
12 provide those refundable credits to millions
13 of families. And those are critical income
14 supports. They represent a policy choice to
15 deliver those income supports through the tax
16 code. But certainly the tax code isn't the
17 only way that the state is providing income
18 supports to low-income families.

19 SENATOR GOUNARDES: Sure. Thank you.
20 I think we can, you know, disagree a little
21 bit there in that we still have -- New York
22 is still ranked one of the highest states in
23 terms of the levels of childhood poverty.
24 We're at 19 percent. The Comptroller put out

1 a report on this in December. Stubbornly
2 high rate of childhood poverty.

3 And even the Child Poverty Task Force
4 is going to come out with a recommendation to
5 increase the child tax credit. So I think
6 it's a missed opportunity for us here in this
7 budget. We have to get to 50 percent in
8 seven years. This is Year 1 of that seven.
9 If we don't do anything, we are going to be
10 way behind in doing that.

11 The existing state child tax credit is
12 linked to the pre-2017 federal child tax
13 credit, is that correct?

14 ACTING COMMISSIONER HILLER: Yes.

15 SENATOR GOUNARDES: Can you speak to
16 why that is, or how that --

17 ACTING COMMISSIONER HILLER: We --
18 right at the end of 2017 the Trump
19 administration advanced significant
20 comprehensive tax changes, the Tax Cuts and
21 Jobs Act. And New York had to respond to
22 those changes essentially immediately as part
23 of that budget cycle. And, you know, for the
24 most part the policy decision that was made

1 at the time by the Governor and the
2 Legislature was to maintain the status quo
3 for New York as compared to federal law
4 before the Trump tax cuts took effect, and
5 then go essentially one at a time to re --
6 what we call recouple to the federal law,
7 where we thought that the policy change that
8 was made as part of the Trump tax cuts made
9 sense for New York.

10 And so there was essentially a blanket
11 decoupling from the changes that were being
12 made by the Tax Cuts and Jobs Act in order to
13 make sure that the -- that many of the
14 changes that were being driven by that
15 federal tax legislation didn't disturb the
16 policy choices that New York had already
17 made.

18 SENATOR GOUNARDES: You will find no
19 disagreement from me in questioning the
20 wisdom of some of the Trump tax cuts.

21 However, the 2017 law also increased
22 the maximum amount of the credit from \$1,000
23 to \$2,000 per child, yet lowered the
24 refundability threshold from 3,000 to 2500

1 and essentially doubled the phaseout
2 thresholds. Which the totality of all those
3 choices in the 2017 law was a more generous
4 federal tax credit, but the state is not
5 matching or meeting that moment. And the
6 state tax credit right now is capped out at
7 \$500 per child.

8 So I'm concerned that we have not
9 taken advantage of our own tool in our
10 toolkit through state tax policy to match the
11 more generous -- or come near or nearer the
12 generosity of the federal government,
13 especially when we know that New York ranks
14 so persistently high on the scale of children
15 who live in poverty.

16 Do we have an estimate or can you
17 ballpark or has any analysis been done what
18 it would cost to -- if we bring the state tax
19 code up and we kind of recouple back to the
20 federal child tax credit standards, what that
21 would cost us?

22 ACTING COMMISSIONER HILLER: You know,
23 I don't know that offhand. I can certainly
24 go back and ask my staff to look at that

1 question and get back to you.

2 SENATOR GOUNARDES: Okay, great. I'll
3 have some more questions on the second round.
4 Thank you.

5 ACTING COMMISSIONER HILLER: Sure. Of
6 course.

7 CHAIRWOMAN KRUEGER: Thank you.
8 Assembly.

9 CHAIRWOMAN WEINSTEIN: We go to
10 Assemblyman Zebrowski, three minutes.

11 ASSEMBLYMAN ZEBROWSKI: Thank you.

12 Commissioner, appreciate it. I chair
13 the Corporations, Authorities and
14 Commissions, so with only three minutes I'm
15 going to have to talk about the MTA Payroll
16 Mobility Tax.

17 I don't know if you're going to have
18 all the answers to this, but I would
19 appreciate if your department could supply
20 myself and the committee with some additional
21 information that we probably won't get to in
22 the three minutes of a discussion today.

23 We're interested in sort of the
24 overall rationale of choosing the payroll tax

1 as the way of raising the money for the MTA.

2 We're interested in how granular sort
3 of the data you have is on who these
4 businesses are, where they are. We're
5 interested in -- so I've heard the estimate
6 of 5 percent, this is only going to deal with
7 5 percent of businesses. My understanding is
8 this increase will apply to those that have
9 an annual payroll of over 1.736 million,
10 right? The number is given in the quarterly
11 number; for some reason my brain does it in
12 an annual number.

13 ACTING COMMISSIONER HILLER: Somewhere
14 around there.

15 ASSEMBLYMAN ZEBROWSKI: It doesn't
16 seem very high to me. So I guess we would
17 consider small businesses to be under that.
18 I would think it would be a medium-sized
19 business to have about a \$2 million annual
20 payroll. So just interested in sort of, you
21 know, being given that data.

22 Be interested in if there were other
23 alternatives you considered to fill this gap
24 for the MTA, why or why not you -- why you

1 chose this one and why you didn't choose
2 those.

3 Interested as to, with that data of
4 the businesses, right, these level of
5 New York businesses, in this category of
6 5 percent, assuming that's correct, what's
7 the mean, what's the median? We have some
8 very large businesses, some medium-sized
9 business in the MTA district.

10 And lastly, whether philosophically
11 you consider all the businesses in the MTA
12 district to be similarly situated. You
13 obviously have, I think, 12 counties that
14 make up the MTA district, various levels of
15 service, some that have customers and
16 employees that utilize MTA services, and some
17 like West of Hudson businesses that have no
18 customers or employees that are able to
19 utilize MTA services.

20 So those are the type of questions the
21 committee has. There's no way you could
22 answer that in three minutes. So instead, I
23 decided to list them, and maybe you could get
24 back to the committee on them.

1 Thank you.

2 ACTING COMMISSIONER HILLER: Sure. I
3 don't think I have time to answer any of the
4 questions.

5 (Laughter.)

6 ASSEMBLYMAN ZEBROWSKI: No, I don't
7 think you do either.

8 CHAIRWOMAN KRUEGER: Sorry. She
9 didn't have time to answer.

10 CHAIRWOMAN WEINSTEIN: That's okay.
11 We'll -- not now, but I'll follow up with
12 that when it's my turn.

13 ACTING COMMISSIONER HILLER: Okay. I
14 mean, I can answer some of those questions,
15 but we'll come back to it? Okay.

16 CHAIRWOMAN WEINSTEIN: Yeah, we'll
17 come back to that, then.

18 ACTING COMMISSIONER HILLER: That's
19 great.

20 CHAIRWOMAN WEINSTEIN: Senate?

21 CHAIRWOMAN KRUEGER: Senator Murray.

22 SENATOR MURRAY: Thank you very much.

23 I think we could have a whole hearing
24 on the MTA payroll tax, to be honest.

1 But first let me start, Commissioner
2 Hiller, with a statement. In looking at
3 this, I'm looking at us prohibiting the sale
4 of all flavored tobacco products, and I'm
5 looking at what that's going to cost us:
6 116 million in fiscal year '24, 222 million
7 estimated in fiscal year '25. The Nanny
8 State rears its head again. And we're so
9 concerned about health or something, and yet
10 we're fine with sugar-coated candied THC
11 edibles in all sorts of flavors. We're fine
12 with all sorts of flavored alcohol. We now
13 have alcohol seltzers that we're selling and
14 generating revenue.

15 The reason I bring this up is we're
16 perfectly willing to watch over \$100 million
17 go out the door in tax revenue, yet I look at
18 the creation of the tax credit for childcare
19 creation and expansion. The amount allocated
20 this year is zero. I understand we're
21 creating it, it's new. But we're giving away
22 116 million, an estimated 116 million in
23 revenue. Why couldn't we have kicked that in
24 quicker?

1 I also see when it does kick in,
2 there's a cap, in fiscal year '25 and fiscal
3 year '26, of 25 million. For childcare
4 credits. I mean, we should -- that should be
5 tripled, quadrupled. And we can't say it's
6 because of revenue when we're watching a
7 couple of hundred million go out the door by
8 banning flavored tobacco.

9 Can you speak to that?

10 ACTING COMMISSIONER HILLER: You know,
11 I want to be careful about talking about
12 health policy, because that's definitively
13 not my -- not my bailiwick.

14 But I do believe that the proposal to
15 ban flavored tobacco is part of a broader
16 effort to curb youth smoking, the costs of
17 which are incalculable over the lifetimes of
18 those children who begin smoking.

19 So I think that that's first something
20 that has to be balanced over time, and I
21 believe that my health policy colleagues have
22 been thoughtful about that.

23 In terms of the tax revenue impact of
24 that ban, New York has some of the highest

1 tobacco taxes in the country. And that's
2 also part of a calculated effort to try to
3 curb youth smoking by making the -- making
4 cigarettes that much further out of reach for
5 young people.

6 SENATOR MURRAY: I'm sorry, I have
7 to -- you know, only because I have one more
8 question.

9 ACTING COMMISSIONER HILLER: Of
10 course.

11 SENATOR MURRAY: And by the way, we
12 upped the tax last time and lost revenue
13 because -- but not because people quit. They
14 went other places. But really quickly --

15 ACTING COMMISSIONER HILLER: But
16 children don't. That's part of the
17 challenge.

18 SENATOR MURRAY: Real quickly, and to
19 localize, Suffolk County had a ransomware
20 attack on its website. I want to know, is
21 there going to be any kind of an impact
22 because of that in regards to rebates or STAR
23 rebates or anything like this. Will there be
24 any impact, or are we okay?

1 ACTING COMMISSIONER HILLER: We don't
2 anticipate any impacts.

3 Staff at the department have worked
4 with staff in Suffolk County about -- there
5 are a number of places where we interact with
6 county government. That includes property
7 tax issues. It also relates to like real
8 estate transfer tax issues and recording tax
9 issues.

10 And we've been working with them to
11 sort of smooth through the impacts of the
12 ransomware attack.

13 SENATOR MURRAY: Okay, thank you so
14 much.

15 CHAIRWOMAN KRUEGER: Thank you.
16 Assembly.

17 CHAIRWOMAN WEINSTEIN: Yes, we go to
18 Assemblyman Dilan.

19 ASSEMBLYMAN DILAN: Thank you,
20 Madam Chair. And thank you, Commissioner.
21 I'll get right to my questions.

22 In the budget proposal -- we covered
23 some of this at the first hearing on Monday
24 as it relates to the MTA and its potential

1 local share of revenue from the three
2 downstate casinos. Can you give me more
3 background on how that revenue is going to be
4 split? Are they going to get a hundred
5 percent of the revenue or are they going to
6 split with the state and the General Fund in
7 some form? Could you give me more detail?

8 ACTING COMMISSIONER HILLER: I wish I
9 could answer that question, but it is
10 definitely not in my lane. I'm not part of
11 that part of the budget where we're talking
12 about a new casino and how that revenue is
13 going to split out, because the
14 Tax Department doesn't have any role in that
15 process.

16 I can certainly bring it back to my
17 colleagues and ask them to --

18 ASSEMBLYMAN DILAN: Maybe that was
19 probably more appropriate for Monday. But
20 the question list --

21 ACTING COMMISSIONER HILLER: Sure, of
22 course. I wish I knew, but I just don't.

23 ASSEMBLYMAN DILAN: The question list
24 for Monday was extensive, so I figured it

1 might be faster here.

2 ACTING COMMISSIONER HILLER: It's
3 worth a shot.

4 ASSEMBLYMAN DILAN: Also have a
5 question on some of the changes you're making
6 to the collection of local sales tax in terms
7 of making the laws permanent. What's the
8 rationale for doing that?

9 And how is New York City included in
10 that? According to my documents, it's 57
11 counties outside of New York City. How is
12 New York City treated with respect to that in
13 either the existing law or some other --
14 something else that's not here?

15 ACTING COMMISSIONER HILLER: So first,
16 with regard to New York City, New York has
17 permanent authority to -- sorry. With regard
18 to New York City, New York City has permanent
19 authority to collect its sales tax. It
20 doesn't come up for renewal every two years
21 or every three years like the sales taxes in
22 other counties do.

23 The Executive has long proposed to
24 make the state authorization for local sales

1 taxes permanent at their current rates. That
2 certainly would never preclude the
3 Legislature from considering and enacting
4 changes to the existing rates.

5 But the -- sales tax has increasingly
6 become a central revenue stream for counties,
7 and so there's uncertainty about that.

8 ASSEMBLYMAN DILAN: I get the answer.
9 I want to try to squeeze in -- because, you
10 know, it would be great for us because it
11 saves us a lot of time at the end of session.

12 But would New York City then, under
13 this proposal, get the right to be autonomous
14 in the 1 percent increase that the other
15 counties would have local authority to do?

16 ACTING COMMISSIONER HILLER: So right
17 now New York City already has the authority,
18 without coming back to the state, to do it.
19 And that would be continued under this
20 proposal.

21 ASSEMBLYMAN DILAN: I get that part.
22 But the new law is going to allow the 57
23 other counties the autonomy to increase by 1
24 percent above the state rate. Will New York

1 City get that same right?

2 ACTING COMMISSIONER HILLER: So New
3 York City's already above that rate. So the
4 state-based rate is 3 percent. Most counties
5 in the state are already at 4 percent or over
6 4 percent, and New York City already is as
7 well.

8 ASSEMBLYMAN DILAN: Got it. Thank
9 you.

10 CHAIRWOMAN WEINSTEIN: Senate.

11 CHAIRWOMAN KRUEGER: Thank you.

12 Senator Tom O'Mara.

13 SENATOR O'MARA: Thank you.

14 Good afternoon.

15 ACTING COMMISSIONER HILLER: Good
16 afternoon, Senator.

17 SENATOR O'MARA: Last year we
18 accelerated the middle-class tax cut,
19 income tax cut. With inflation last year,
20 this year, you know, bracket creep is
21 becoming a significant issue in that.

22 Are you supportive of indexing our
23 income tax brackets for inflation to limit
24 the impact of this bracket creep?

1 ACTING COMMISSIONER HILLER: You know,
2 one of the great things about being the Tax
3 Commissioner is that we administer the policy
4 choices of the Governor and the Legislature.

5 And, you know, I certainly understand
6 an argument for indexing for inflation. I
7 can also say that, you know, New York's tax
8 brackets are very, very concentrated in the
9 low income. In the low income there are
10 several very, very, very low-income brackets.
11 And then we start having very, very, very
12 wide brackets. So, you know, one could also
13 contemplate adding additional brackets to add
14 additional progressivity into the tax, for
15 example.

16 I think there are lots of ways that we
17 could consider changing the current income
18 tax rate structure to address that kind of
19 creep. And it might include indexing, but it
20 might include other ways of adjusting the
21 brackets.

22 SENATOR O'MARA: Thank you.

23 I would I guess request that you have
24 some discussions along that line --

1 ACTING COMMISSIONER HILLER: Sure. Of
2 course.

3 SENATOR O'MARA: -- with the
4 administration and try to get something
5 moving on that.

6 One issue that's been a nuisance
7 lately is these marijuana sticker shops
8 across the state, cash businesses gifting
9 marijuana. What is the department doing with
10 regards to assuring they're paying taxes on
11 this, both income and sales taxes?

12 You know, we've had law enforcement
13 raid these entities that are operating in a
14 gray market. Law enforcement, district
15 attorneys are kind of in a quandary of how to
16 deal with these. I know one DA at least is
17 looking at enforcement of tax -- of not
18 paying taxes.

19 But, you know, we've got one in Elmira
20 that gave away three cars as incentives for
21 people to shop in their business. Three
22 brand-new automobiles. Another one went up
23 to the rooftop of their store and threw
24 \$10,000 in cash out to their customers in the

1 parking lot.

2 What is the state doing -- first of
3 all, they're not doing anything to shut these
4 things down other than sending a
5 cease-and-desist letter, which is useless.
6 But what are we doing to at least collect tax
7 revenues on these businesses that are
8 operating this way?

9 ACTING COMMISSIONER HILLER: So, one,
10 you know, I certainly understand your
11 frustration around cannabis tax enforcement.

12 One of the things that -- I think
13 there are a lot of assumptions about what the
14 Tax Department can do around the enforcement
15 of cannabis taxes. But the original
16 legislation that was enacted didn't really
17 give the Tax Department the kind of authority
18 we would need to undertake cannabis
19 enforcement the same way we undertake tobacco
20 tax enforcement, for example.

21 And that discussion began -- I think
22 towards the end of last session there was
23 legislation kicking around that would expand
24 our authority and make clearer when the

1 Tax Department can walk into a store and
2 begin to search it and try to find illicit
3 cannabis and the like.

4 And I would anticipate that those
5 discussions are going to continue in this
6 session, because at the end of the day the
7 Tax Department has robust -- deep experience
8 in enforcing tobacco taxes, and we understand
9 that the consensus seems to be that the
10 Tax Department will be playing a significant
11 role in the future. But --

12 SENATOR O'MARA: Well, you could go
13 into a convenience store and -- with
14 enforcement actions on their failure to pay
15 sales taxes. All sorts of things.

16 So regardless of them giving marijuana
17 out, they're selling stickers for whatever
18 price. And they're not paying taxes on that.
19 Shouldn't there at least be enforcement
20 actions taking place to make sure that
21 they're at least paying taxes on the sales of
22 these stickers?

23 ACTING COMMISSIONER HILLER: So first,
24 you know, I can't speak to any specific audit

1 or enforcement activity around that. But I
2 would say we would definitely have an
3 expectation that a convenience store that is
4 selling stickers, whether for a dollar or for
5 \$10 or for \$100, is collecting sales tax from
6 its customers on that sale.

7 And that -- that's definitely -- but
8 there's a -- that doesn't happen. We don't
9 get that information immediately. Those
10 convenience stores are going to file their
11 tax returns quarterly, it's going to be
12 lumped into their larger return. And so we
13 can go out and take enforcement action about
14 individual ones, but there's a civil
15 structure for that enforcement action where
16 we send them a notice and we tell them that
17 they owe more taxes. And then, you know, it
18 goes through a process that sometimes takes
19 many years on the civil side.

20 We don't have tax crimes around
21 cannabis yet. We have had tobacco
22 enforcement actions where we have happened to
23 find cannabis in the course of tobacco
24 inspections, and that has led to cannabis

1 arrests. And we're working closely with our
2 law enforcement partners to make sure that
3 that happens when we -- when we find cannabis
4 in the course of our enforcement activities
5 for other taxes.

6 CHAIRWOMAN KRUEGER: Thank you.

7 SENATOR O'MARA: We should be tracking
8 this cash, whether it's cannabis or not.

9 There's boatloads of it when they raid these
10 places. They're doing over \$100,000 a week.

11 CHAIRWOMAN KRUEGER: Thank you, Tom
12 O'Mara.

13 Assembly.

14 CHAIRWOMAN WEINSTEIN: Assemblywoman
15 Shimsky.

16 ASSEMBLYWOMAN SHIMSKY: Thank you very
17 much, Madam Chair.

18 And thank you for joining us,
19 Commissioner. I salute you for doing more
20 digitization. I think moving into the
21 21st century is a good idea.

22 Were there any reductions in any of
23 our budget lines taken from the cost savings
24 we might anticipate from not having to do

1 mail and things like that?

2 ACTING COMMISSIONER HILLER: Not yet.

3 ASSEMBLYWOMAN SHIMSKY: Not yet.

4 ACTING COMMISSIONER HILLER: You know,

5 I'm -- you know, we're actually focused on

6 helping -- we're trying to -- we are really

7 good at holding taxpayers accountable for

8 having failed to demonstrate their

9 eligibility for benefits, and we're trying to

10 do a better job of helping to make sure that

11 those taxpayers are able to claim the

12 benefits that they're entitled to. Because

13 for better or for worse, the Governor and

14 Legislature have chosen the Tax Department to

15 deliver a broad range of low-income supports

16 to working families.

17 And so we're trying to help make sure

18 that we can do better with taxpayers and help

19 them comply. It's frustrating to me, as the

20 general counsel of the Tax Department, that

21 we can ask a taxpayer to provide a birth

22 certificate for a child to demonstrate

23 eligibility, and they don't. We go through a

24 remediation process and they don't produce

1 it. We go to a hearing before an
2 administrative law judge, and suddenly
3 there's the birth certificate.

4 And I have to assume that that's
5 because that family didn't feel comfortable
6 mailing us the birth certificate. And so we
7 have to try to find other ways to make it
8 possible for taxpayers to answer the
9 questions that are reasonable questions about
10 their eligibility for the benefit, but do so
11 in a way that is easier for them to comply
12 and that will ultimately lead us to spend
13 more money on those credits.

14 ASSEMBLYWOMAN SHIMSKY: And presumably
15 it will take a lot less money if they could
16 just email you the birth certificate as
17 opposed to calling a hearing.

18 ACTING COMMISSIONER HILLER: I would
19 certainly hope so, in the long run. But I
20 think that that would be something that would
21 play out over time.

22 ASSEMBLYWOMAN SHIMSKY: Okay. Okay.

23 And how many more frontiers do we have
24 to go in terms of digitization?

1 ACTING COMMISSIONER HILLER: I think
2 that -- you know, I'm really excited about
3 our IT modernization effort because our
4 platforms are on 40-year-old technology. But
5 for example, we would like to be able to
6 issue notices in Spanish. But our
7 notices are currently hard-coded, and that
8 means that every time we change a word, it
9 requires decoders to go in and change that
10 word in every variation of that notice.

11 And so the possibility of making those
12 kinds of jumps in our engagement and in our
13 service to taxpayers, really sort of depends
14 on us replatforming that technology so that
15 we have a different kind of flexibility
16 around how we work.

17 ASSEMBLYWOMAN SHIMSKY: Okay. What
18 percentage of our budget are our cash
19 reserves at this point, and what is
20 considered -- what is the range of
21 acceptability?

22 ACTING COMMISSIONER HILLER: You know,
23 I don't know that answer. I know that we're
24 hoping to be at \$20 billion at the end of

1 this cycle. But I think it's a \$227 billion
2 budget. Some of that is federal funds, so I
3 think I would probably separate them out
4 before I went down to the state.

5 So we're -- we're -- I can't give you
6 that number. But we're making significant
7 progress in making sure that we have a rainy
8 day fund that would help us if we saw a
9 significant economic downturn.

10 ASSEMBLYWOMAN SHIMSKY: Okay, great.

11 Thank you.

12 CHAIRWOMAN WEINSTEIN: Thank you.

13 To the Senate?

14 CHAIRWOMAN KRUEGER: Thank you.

15 I think it's me at the moment.

16 So I was very pleased to see in the
17 Governor's budget a modernization of the
18 definitions of SCRIE, Senior Citizen Renting
19 Income Exemption, an incredibly important
20 program in the City of New York and a few
21 other counties for freezing elderly
22 people's -- low incomes -- rent.

23 The landlord gets it through a
24 property tax deduction, so landlords also

1 like it, so it's a win/win. And this would,
2 at local option, give the locality the option
3 to no longer count Social Security income
4 towards income, which I think is huge for the
5 City of New York.

6 Does this include SSD and SSI in
7 addition to Social Security retirement funds?
8 Is it your understanding it would?

9 ACTING COMMISSIONER HILLER: I don't
10 believe that it does, but I don't believe
11 that the current definition does either.

12 CHAIRWOMAN KRUEGER: You don't think
13 it does.

14 ACTING COMMISSIONER HILLER: I will
15 have to get back to you on that. I'm sort of
16 working from memory. But I believe that we
17 were pretty closely tracking what the
18 original definition was, but trying to
19 simplify it by matching it to clear elements
20 on the tax return.

21 I'm happy to go look at that question.
22 I mean, because we've heard people ask us
23 about whether we should be moving to simplify
24 the income definition for the disabled

1 exemptions --

2 CHAIRWOMAN KRUEGER: That was my
3 second question, why not do the same thing?

4 ACTING COMMISSIONER HILLER: Yeah,
5 which has -- because it -- the definition
6 doesn't exactly match now. And so I'm not
7 sure that we would necessarily want to see it
8 exactly match the senior citizen exemption
9 going forward.

10 But I'm certain that there are
11 opportunities to simplify that as well, in
12 ways that would make it easier for people who
13 should be getting those exemptions to be able
14 to demonstrate that they're eligible for
15 them.

16 CHAIRWOMAN KRUEGER: So I would love
17 your help to do that to -- and I think I can
18 probably get New York City to support it as
19 well, because we see this as both programs an
20 incredibly effective tool to help keep the
21 elderly and disabled in their homes.
22 Because, guess what, we don't have anywhere
23 else for them to go. We want to keep them in
24 their homes.

1 So I appreciate your follow-up on
2 that.

3 Then there's a section that extends
4 the property tax exemption or reduced rates
5 for REITs, real estate investment trusts.
6 Why? I mean, we actually have problems
7 nationally with REITs purchasing up the
8 housing stock, both single-family houses and
9 multifamily dwellings. With all due respect,
10 not necessarily knowing what they're doing in
11 real estate, so they cause all kinds of
12 problems for people. And now why are we
13 giving them a reduced tax rate?

14 ACTING COMMISSIONER HILLER: I believe
15 that that reduced tax rate -- so normally you
16 pay \$2 per \$500. And the reduced tax rate
17 for REITs is \$1 per \$500. I believe that
18 that's tied to some of the formation and
19 initial acquisition of properties where the
20 seller of the property is becoming an owner
21 of the REIT. And so it's part of -- it's
22 part of -- you know, there's a structure
23 there where the grantor is getting an
24 ownership interest in the REIT that's at

1 least 50 percent of the value of the property
2 that comes in.

3 It's a complicated formula. It's been
4 in place since 1999. I think that the
5 proposal to extend it is because it has
6 become part of the baseline for the financial
7 operations of those REITs, especially -- and
8 this isn't just that they're acquiring an
9 investment property. There's an ownership
10 transaction that's part of the transaction.

11 CHAIRWOMAN KRUEGER: So do you think
12 there are private owners who are moving it
13 into a REIT model so they can reduce their
14 taxes? Because you said it's sometimes
15 transferring to themselves within a REIT.

16 ACTING COMMISSIONER HILLER: No, I
17 think that the -- it's the grantor, the
18 seller of the property, is becoming an owner
19 of the REIT as part of it. I -- I can't
20 imagine that there's that much tax advantage
21 to -- that would drive somebody to enter into
22 the REIT when there are so many other tax
23 avoidance opportunities available.

24 CHAIRWOMAN KRUEGER: Well, apparently

1 it cuts their rate in half, so there probably
2 is a significant saving to them.

3 ACTING COMMISSIONER HILLER: Right,
4 but we're -- but we're -- you know, so I
5 think, depending on the scale of the
6 building, that could make a difference. And
7 certainly this is a policy choice that the
8 Governor and -- that past governors and past
9 legislatures have been making for decades.

10 I think that Governor Hochul is
11 proposing to maintain the status quo for the
12 industry, and ...

13 CHAIRWOMAN KRUEGER: So will you be
14 able to tell me how much money in REIT taxes
15 we are collecting so that I can calculate how
16 much we would be collecting if they paid the
17 same rate as everybody else owning property?

18 ACTING COMMISSIONER HILLER: You know,
19 I'm not sure that I can. I mean, we can
20 certainly look at that question. I'm not
21 sure, though, that we'd be able to do that
22 because I -- we'd have to go through real
23 estate transfer tax filings in a different
24 way than we normally do.

1 But we can certainly look at that
2 question and get back to you with what we do
3 know and what we don't know.

4 CHAIRWOMAN KRUEGER: I would
5 appreciate that. Thank you.

6 So there's a proposal, and I think
7 it's been made in previous years and rejected
8 by the Legislature, to allow the Department
9 of Taxation and Finance the right to appeal a
10 tax appeal tribunal decision.

11 ACTING COMMISSIONER HILLER: Yes.

12 CHAIRWOMAN KRUEGER: We have a tax
13 appeal tribunal so that when taxpayers
14 believe that the wrong decision has been made
15 by the department, they can go to someone for
16 appeal.

17 That someone is a group of people that
18 the Governor has actually appointed, I guess
19 with confirmation by the Senate. So these
20 are government appointees who are supposedly
21 independent but knowledgeable about Tax Law,
22 saying, Sorry, the department was right, you
23 can try to go to court, that's your right.
24 Or no, you're right, the department made a

1 mistake.

2 So now you want the power as the
3 department to go to court if the tribunal
4 rules against you. I just think that's a
5 dangerous policy road to go down. Do you
6 lose a lot of these fights with the tribunal?

7 ACTING COMMISSIONER HILLER: No,
8 actually we win most cases that come before
9 the tribunal. But that's because in most of
10 the cases that come before the tribunal --

11 CHAIRWOMAN KRUEGER: Can you hold the
12 microphone closer?

13 ACTING COMMISSIONER HILLER: Oh, I'm
14 sorry. Sure.

15 We actually win most of the cases that
16 come before the tribunal, but that's because
17 in most of the -- you know, taxpayers can
18 appeal as of right, but in most cases the tax
19 treatment was actually pretty clear.

20 And although taxpayers have the right
21 to protest that they should get that credit
22 even though the Tax Department denied it,
23 the -- often the -- there are really bright
24 lines and the taxpayers advancing an appeal,

1 often pro se, and it's just part of the
2 business of the tribunal.

3 But at the same time, there are
4 certainly other issues that come before the
5 tribunal that are much more complex, that
6 involve different kinds of questions about
7 the Tax Law or about the Constitution, the
8 state Constitution or the federal
9 Constitution, about whether or not the state
10 is appropriately exercising its taxing power
11 under the Constitution.

12 And in those cases, people in good
13 faith can have a different opinion about what
14 the right answer can be. So an
15 administrative law judge may have ruled for
16 the department, and the Tax Appeals Tribunal
17 may have not ruled for the department. In
18 that case, the tax law judge ruled for the
19 department and the tribunal did not.

20 And I think the question that we're
21 facing as we go forward is whether -- if the
22 question is, for example, whether the state
23 is appropriately exercising its taxing power
24 vis-a-vis other states, whether or not that

1 decision should be a decision that rests with
2 the Tax Appeals Tribunal or whether it should
3 properly be heard by state and federal courts
4 as a question of constitutional law for the
5 country.

6 CHAIRWOMAN KRUEGER: I still think
7 it's a little bit of a slippery slope for us
8 to have an agency that challenges its own
9 tribunal on appeals.

10 ACTING COMMISSIONER HILLER: I think
11 the -- you know, one thing I would say is
12 that there are 32 states that have an
13 equivalent independent administrative tax
14 court. In all but two of them, the tax
15 agency has a right to appeal. The model ABA
16 legislation for a tax appeals tribunal has an
17 agency right to appeal.

18 In the two states that don't have a
19 right to appeal: Delaware, the tax agency
20 can remove a case to its trial courts, in the
21 first instance; and in California, there are
22 constitutional limits on the authority of a
23 tax agency to render decisions on
24 constitutional questions.

1 CHAIRWOMAN KRUEGER: Thank you.

2 Following up on my colleague Senator
3 O'Mara's concerns about the illegal cannabis
4 stores -- and I am share his frustration,
5 trust me. And we have been working with the
6 Governor's office and your department on
7 getting a stronger law out there to give more
8 tools to your agency, OCM, police, sheriffs,
9 et cetera. And hopefully that will happen
10 soon.

11 But I also just want to point out that
12 there are tools that not every county knows
13 they could be using. New York City just this
14 week started sending out letters to landlords
15 who rent to illegal cannabis stores, pointing
16 out that they're violating the law and that
17 we're going to force eviction of those
18 facilities. So that's one option.

19 There's also something called the
20 Public Nuisance Law that's been on the books
21 forever and actually was used very
22 effectively to close down illegal liquor
23 locations throughout our New York State
24 history. That's also on the books that could

1 be used. And sheriffs have come up with some
2 very creative ideas -- I'm going to stop.

3 But for Senator O'Mara and your
4 counties, I'd be happy to sort of suggest all
5 of those for now.

6 Thank you. Thank you. Assembly?

7 CHAIRWOMAN WEINSTEIN: So we go to
8 Assemblyman McDonald.

9 ASSEMBLYMAN McDONALD: Thank you,
10 Madam Chair.

11 Amanda, good to see you.

12 ACTING COMMISSIONER HILLER: Nice to
13 see you.

14 ASSEMBLYMAN McDONALD: You know, tax
15 policy is just so interesting. Although the
16 crowd here doesn't demonstrate that. It's a
17 little light in attendance. And, you know,
18 it's actually interesting because obviously
19 we need revenue to support our operations,
20 but it's always an exercise in human behavior
21 too, because every change has an impact
22 somewhere along the line.

23 You know, there's been a lot of
24 conversation going on about the policies we

1 put in place and people are going to leave
2 New York State. And even though our
3 population's over 20 million people, so it's
4 grown over the last decade, there have been
5 conversations about people leaving. And some
6 people are fearful that our policies cause
7 that problem. I'm not saying I agree or
8 disagree.

9 I guess my question -- and I loved
10 your comment earlier about, you know, the
11 Legislature and the Executive make the
12 policies. But does the department have a
13 mechanism in place to actually measure if our
14 policies are causing people to leave? You
15 know, particularly gets into the wealthy.

16 Do we -- I know it's not simple, by
17 any stretch of the imagination. But are we
18 able to track how many millionaires and
19 billionaires are leaving? Is that something
20 the department has the ability to do?

21 I don't think it's a candid report, to
22 be honest with you.

23 ACTING COMMISSIONER HILLER: Certainly
24 it's not a candid report. You know, we are

1 absolutely aware of the conversation at large
2 about migration out of New York. There are
3 media reports all the time about the U-Haul
4 vans going to Florida and the like. And we
5 are certainly looking at migration as part of
6 our general analysis of other tax trends.

7 I can say that, you know, we have
8 access to IRS data that runs through 2020, we
9 have access to state tax filing data that
10 runs through tax year '21, and we see people
11 leaving New York at a greater pace. We saw
12 the -- during 2020, the height of the COVID
13 pandemic, we saw a higher level of
14 outmigration than we had seen in previous
15 years. We saw that modulate in 2021. We
16 also saw some of the highest-income
17 New Yorkers leaving at a greater rate in
18 2021.

19 But we don't know yet what that's
20 going to look like in 2022. One year doesn't
21 make a trend. We know that people were
22 responding to COVID in 2020, and we don't
23 know yet whether people are going to be --
24 whether those trends are going to revert back

1 to historic levels in 2022. We'll know that
2 better this time next year.

3 But what I will say is that there's a
4 ton of data on our website. We have tax
5 facts on our website that include income tax
6 and migration data and the like, that --
7 where you see the trends that we're seeing.

8 ASSEMBLYMAN McDONALD: I thank you for
9 that. Only because from my perspective,
10 there's a lot of good things we want to do
11 for everybody throughout New York State, but
12 we need all hands on deck. And we need
13 everybody doing their fair share.

14 Thank you.

15 CHAIRWOMAN WEINSTEIN: Thank you.

16 To the Senate.

17 CHAIRWOMAN KRUEGER: Senator
18 Gounardes, second round, three minutes.

19 Thank you.

20 SENATOR GOUNARDES: Thank you.

21 Thank you again, Commissioner.

22 Going back to my -- our favorite
23 subject, you know, I just want to point out
24 the state's tax credit for children exempts

1 children age zero to four, the neediest
2 children, children who are at the time when
3 they need it the most.

4 It also does not allow for those with
5 the lowest incomes to receive the highest
6 value of the credit, which right now is only
7 capped at \$500, which is very low. The cap
8 itself is low, and it also excludes hundreds
9 of thousands if not millions of children
10 because of their parents' immigration status.

11 So earlier there was an assertion made
12 that New York State is overly generous with
13 the child tax credit, or that we do a lot
14 already. And I think we can -- we do some.
15 We can certainly do a lot more on that.

16 I want to ask a technical question.
17 You talked about the technological changes in
18 the agency and how you're able to be more
19 efficient and be able to do a lot more direct
20 deposit and a lot more without having to mail
21 checks back and forth.

22 Does the agency right now have the
23 ability -- or can the agency issue credits or
24 refunds electronically at any time throughout

1 the year? Or do they have to do it around
2 certain periods of time?

3 ACTING COMMISSIONER HILLER: We don't
4 have that ability right now. And I -- and
5 I'm not sure that we're -- if we're talking
6 about those same low-income family income
7 supports, like the child credit or the Earned
8 Income Tax Credit, I'm not sure whether we
9 will ever get to that place. I think there
10 are a range of challenges around that.

11 And first I want to clarify, I don't
12 think our benefits are overly generous by any
13 means. But I do know that we are providing
14 significant -- we spend significantly in
15 those areas of our budget.

16 But one of the challenges that we have
17 is that first there's a general problem of
18 many of these families are being unbanked.
19 And there's a -- there's I think a lot of
20 bright people are thinking about how to
21 address the challenges around families that
22 are unbanked. But we can't send an
23 electronic direct deposit to somebody who
24 doesn't have a bank account to receive it.

1 SENATOR GOUNARDES: But we can send
2 someone a check in April, we can mail someone
3 a check in September, we can mail someone a
4 check in December, October. We can also mail
5 a check, right? We have the ability to send
6 out credits to people either via paper or
7 electronically at any point. Or you're
8 saying maybe not for certain populations.

9 But we don't lack for the ability to
10 date a check in September and mail it out
11 September 30th, right?

12 ACTING COMMISSIONER HILLER: We
13 actually -- we mail checks out all through
14 the year. I think the -- there, the
15 challenge is the structure that we're using
16 to determine the eligibility for that credit.

17 SENATOR GOUNARDES: Sure. And in my
18 last 10 seconds, I appreciate your answer and
19 I have to follow up with you on that.

20 ACTING COMMISSIONER HILLER: Okay.

21 SENATOR GOUNARDES: The childcare tax
22 credit being proposed is based on what we
23 enacted last year in New York City. Do we
24 have any data to show how that's worked in

1 New York City before we expand it statewide?

2 ACTING COMMISSIONER HILLER: No.

3 Because the tax cycle just -- we're getting
4 those returns now. It's going to be a year
5 or more before we know.

6 SENATOR GOUNARDES: Thank you.

7 CHAIRWOMAN WEINSTEIN: We go next to
8 Assemblyman Mamdani.

9 ASSEMBLYMAN MAMDANI: Thank you.

10 In your testimony you write, quote:

11 Many of the tax proposals in this budget
12 address issues of equity and fairness.

13 In that same budget, the Governor has
14 effectively proposed a fare hike for the MTA
15 to \$3. Do you think a \$3 fare is equal or
16 fair?

17 ACTING COMMISSIONER HILLER: I can't
18 speak to that. I really can't speak to that.

19 ASSEMBLYMAN MAMDANI: That's okay.
20 I'll move on to the next question, in the
21 interests of time.

22 A \$3 fare places a disproportionate
23 burden on lower- and middle-income
24 New Yorkers to fund the MTA. In economic

1 terms, would you characterize that as a
2 regressive policy?

3 ACTING COMMISSIONER HILLER: I also
4 don't think I can speak to that. I really
5 don't feel like I have enough information to
6 even begin to comment on that.

7 ASSEMBLYMAN MAMDANI: On whether or
8 not a tax of service is a regressive policy?

9 ACTING COMMISSIONER HILLER: I think
10 it depends on the service. I think it
11 depends on a lot of factors. And I really
12 don't feel like I can speak to that.

13 ASSEMBLYMAN MAMDANI: Okay. So I'll
14 move on to taxes, then.

15 ACTING COMMISSIONER HILLER: Thank
16 you.

17 ASSEMBLYMAN MAMDANI: In your
18 testimony you justified the extension of the
19 current corporate tax rates by saying that it
20 keeps us, quote, competitive relative to
21 rates in other states, and in particular to
22 our neighbors.

23 The current tax rate you're referring
24 to in New York is 7.25 percent. But

1 New Jersey's corporate tax rate is at
2 11.5 percent. The corporate tax rates
3 proposed by Senator Hoylman-Sigal and
4 Assemblymembers Kelles and Shrestha would
5 bring us closer to New Jersey's and raise
6 \$9 billion in additional revenue, which would
7 be enough to freeze the fare at \$2.75, fund
8 six-minute train service, make buses free
9 across New York City, and still have billions
10 left over for other critical needs.

11 Would this not be appropriate policy?

12 ACTING COMMISSIONER HILLER: Again, my
13 role is to administer the policy choices that
14 you and your colleagues make with the
15 Governor. And if ultimately the policy
16 choice is to change that tax rate, we will
17 absolutely administer it.

18 ASSEMBLYMAN MAMDANI: You have no
19 preference or ability to comment upon whether
20 something is regressive or whether a certain
21 amount of tax rate would then be able to be
22 fund certain essential services?

23 ACTING COMMISSIONER HILLER: Look,
24 certainly, if you have more revenue, you can

1 fund more services. But you can also take
2 the same revenue and divide it differently to
3 fund different services.

4 I think the State Budget is a large
5 budget; there are a lot of policy choices
6 represented in the budget every year.

7 ASSEMBLYMAN MAMDANI: Thank you.

8 As we close, I'd just like to point to
9 the five active proposals to tax the rich,
10 which are all progressive policies, those
11 that acknowledge that individual and
12 corporate tax burdens should increase with
13 your wealth. We have a healthy, stable tax
14 base that can expand through these proposals,
15 especially, to quote you, as we face risks on
16 the horizon.

17 Thank you very much.

18 CHAIRWOMAN WEINSTEIN: Thank you.

19 Senate?

20 CHAIRWOMAN KRUEGER: I believe we're
21 done.

22 CHAIRWOMAN WEINSTEIN: We still have a
23 few.

24 Assemblyman Manktelow.

1 ASSEMBLYMAN MANKTELOW: Thank you,
2 Madam Chair.

3 Commissioner, just a question back on
4 cannabis.

5 ACTING COMMISSIONER HILLER: Sure.

6 ASSEMBLYMAN MANKTELOW: So I was
7 looking through the budget, or the proposed
8 budget. I see no revenue side for the sale
9 of cannabis. Why is that? Or am I just
10 missing it?

11 ACTING COMMISSIONER HILLER: You know,
12 I don't know what the number is offhand, but
13 I believe that the financial plan anticipates
14 revenue from cannabis. I don't know that
15 number offhand, but I believe it's there.

16 It's not in our part of the budget, so
17 I don't know that number offhand. But I
18 believe it's part of the financial plan that
19 we will be receiving tax revenue from the
20 cannabis taxes.

21 ASSEMBLYMAN MANKTELOW: Okay. So I
22 guess my second question is, as both Senators
23 had made mention, you know, we have people
24 that are expanding their businesses in our

1 districts selling cannabis, in any way they
2 possibly can. What's going to happen with
3 that amount of sales? Will we ever be able
4 to tax that?

5 ACTING COMMISSIONER HILLER: You know,
6 I think that -- you know, so first, I would
7 say it's the early days of legal cannabis
8 sales in New York. We've just had the first
9 couple of licensed cannabis shops opening up
10 just in the last several weeks or the last
11 couple of months.

12 And, you know, certainly there is
13 clearly a demand for those stores. The --
14 that hopefully, over time, will help move
15 folks away from the illegal cannabis market
16 that grew up before those legal stores were
17 open.

18 The Tax Department -- if we ultimately
19 receive the statutory authority to do so, the
20 Tax Department will pursue cannabis
21 enforcement the same way we pursue tobacco
22 enforcement now.

23 We don't have that authority now.
24 But, you know, assuming we get that

1 authority, we will take that work on.

2 ASSEMBLYMAN MANKTELOW: And if you do
3 receive that authority, how far back can you
4 go?

5 ACTING COMMISSIONER HILLER: You know,
6 I think it's hard to go -- I mean, in terms
7 of the tax liability for the sales, folks are
8 finding clever ways to sell cannabis like
9 selling stickers and giving cannabis away
10 with the stickers. That sticker sale is
11 subject to sales tax today. And there's
12 enforcement action around that that we can be
13 taking, but it has to be taken in the course
14 of ordinary sales tax enforcement actions.

15 There are -- those kinds of
16 opportunities we have, we can go back several
17 years.

18 ASSEMBLYMAN MANKTELOW: So we can go
19 back for the stickers, but we can't go back
20 for the cannabis.

21 ACTING COMMISSIONER HILLER: I think
22 it's going to be harder to go back for the
23 cannabis because we don't have the same kinds
24 of information we might have about a

1 particular store's cannabis sales.

2 The tax structure for cannabis is one
3 that is based on the amount of THC in a
4 product. And that, I think, becomes more
5 challenging if what we're trying to do is
6 collect tax on the untaxed cannabis, unless
7 we actually have that untaxed cannabis in our
8 hands.

9 ASSEMBLYMAN MANKTELOW: All right. I
10 appreciate your time. Thank you.

11 Thank you, Madam Chair.

12 CHAIRWOMAN WEINSTEIN: Thank you.

13 We go to Assemblyman Ra.

14 ASSEMBLYMAN RA: Thank you.

15 Thank you, Acting Commissioner.

16 Mr. McDonald actually covered the
17 first thing I wanted to ask about, because I
18 think we did talk about last year whether the
19 department had any data about the increases
20 in high-earner tax rates we had done back in
21 2021. And, you know, you said probably
22 around the time this year, so I think you
23 already detailed that, so I won't go back
24 into that.

1 ACTING COMMISSIONER HILLER: There's a
2 ton of information on our website.

3 ASSEMBLYMAN RA: Yup, this is great.

4 And I do want to say, by the way,
5 always -- your staff is always responsive to
6 constituent requests. Obviously I know a lot
7 of us had to reach out in the fall with
8 rebate checks and all of that type of stuff,
9 so I do want to thank you for that.

10 ACTING COMMISSIONER HILLER: Thank
11 you.

12 ASSEMBLYMAN RA: One of my colleagues
13 actually asked if I could ask you a question
14 regarding his proposal to extend the
15 application deadline for the COVID-19 capital
16 costs tax credit.

17 So I know there's still money out
18 there for this program. And the question he
19 had was whether there's been any
20 conversations or could be any conversations
21 about maybe having some flexibility in that
22 program where perhaps a -- I know it's meant
23 for, you know, something a business had to do
24 specifically to respond to COVID -- but for a

1 business that, say, planned some capital not
2 knowing what was coming and then all of a
3 sudden got hit with COVID and might be
4 needing assistance because of that.

5 ACTING COMMISSIONER HILLER: Yeah, so
6 that credit -- first, you're right, there is
7 money left in that program. And the proposal
8 is to extend the deadline out through
9 September.

10 You know, I'm not aware that there
11 have been conversations along those lines,
12 but I certainly -- I can't imagine that our
13 economic development -- my economic
14 development colleagues wouldn't be amenable
15 to having conversations about whether or not
16 that would be an appropriate extension or
17 expansion of the credit.

18 I think certainly the intention here
19 was to help businesses that experienced
20 unexpected costs around their COVID response.

21 ASSEMBLYMAN RA: Okay. And one of the
22 I would say main tax-increase proposals in
23 this budget is the cigarette tax increase. I
24 mean, look, I think anybody smoking

1 cigarettes at this point in 2023 -- I mean,
2 we're very well aware of all the risks. But
3 I think these do tend to be regressive. And
4 I know that our state has a huge problem with
5 black market sale of tobacco.

6 So I'm just wondering what
7 resources -- and really, does the department
8 think you have enough resources if there was
9 to be even more black market sale of tobacco
10 going on that you would have to try to crack
11 down on so that the state's not losing that
12 revenue.

13 ACTING COMMISSIONER HILLER: You know,
14 so, one, I think that, you know, the problem
15 of untaxed cigarettes in New York is a very
16 real one, both cigarettes that are brought in
17 from other states where the tax rates are
18 lower -- and we also see some of our
19 Native populations engaging in robust sales
20 from their Nation lands.

21 And that's -- and that has been an
22 important revenue source. I think in
23 Buffalo, you know, there were some tax
24 studies that most of the cigarettes that were

1 being found were Native-brand cigarettes.

2 I think those challenges are very
3 real, and certainly we are -- they are front
4 of mind at the Tax Department because we have
5 responsibility for enforcing the tobacco
6 taxes. And it is -- there's never a shortage
7 of work in that area.

8 I think that the proposal to increase
9 the tax is really about keeping cigarettes
10 out of reach for young people, and that --
11 that that is an important but different
12 policy goal. And to some extent the revenue
13 loss from the increase in the taxes is maybe
14 I think a little beside the point, because
15 the point of our tax structure right now is
16 to keep cigarettes out of reach of young
17 people. And by increasing it, we're
18 intending to do that.

19 I don't -- in that regard, I'm not
20 sure that there's always an expectation that
21 we're going to have all the revenue that
22 would be associated with tobacco sales. But
23 there's a different policy goal at work.

24 ASSEMBLYMAN RA: Sure. And certainly

1 that's a goal I share, and I think --
2 actually, I think the state could do a lot
3 more in showing that goal is a priority when
4 you look at what we spend in tobacco
5 cessation as opposed to what -- a lot of
6 other states, and where many advocates
7 believe we should be.

8 So thank you, Commissioner.

9 ACTING COMMISSIONER HILLER: Sure.

10 CHAIRWOMAN WEINSTEIN: So I believe
11 I'm the last one. And some of the questions
12 I was going to ask have already been asked,
13 so that's why I go last.

14 But just to follow up on what
15 Assemblyman Zebrowski was asking, we would
16 like to have real granular data as to the
17 number of businesses that the mobility tax,
18 the increase, the .16 percent mobility tax
19 would impact. And if that information could
20 be broken down by the number of businesses in
21 each county, each of the counties of the
22 metropolitan commuter transportation mobility
23 tax region.

24 ACTING COMMISSIONER HILLER: So I'm

1 not sure that I can break it down as
2 granularly as by county. And that's because,
3 you know, these are payroll taxes, and an
4 employer that may be based in New York City
5 may have employees that are working in
6 different parts of the MTA region. And so
7 just being able to pinpoint the location of
8 that business may not tell us where each of
9 those employees is working.

10 Unless -- so unless we're actually
11 undertaking an audit of that particular
12 employer, we aren't going to be able to
13 determine whether they've gotten that right,
14 how many of those employees were in each
15 particular -- each particular county.

16 But we can ballpark it.

17 CHAIRWOMAN WEINSTEIN: The businesses
18 that are within those various counties, that
19 you have.

20 ACTING COMMISSIONER HILLER: Sure.
21 But they're paying based on -- so a business
22 that is based in Buffalo that has employees
23 in the MTA region is paying tax on the
24 employees that are working in that region,

1 even though if on paper that's a Buffalo
2 business.

3 So it's a little hard to get that
4 granular. We -- we can -- we can get kind of
5 window close, though. We know that there are
6 about 450,000 businesses operating in the
7 MTA zone. We believe about twenty of -- I
8 think 20,000 of them would pay the top rate.
9 That top rate would apply to businesses that
10 have a weekly payroll of about \$33,000 or
11 higher in a weekly payroll.

12 And that that -- for a business at
13 that level, which is the start of that tax
14 bracket, that's about an additional \$53 in
15 tax on a \$33,000 payroll.

16 CHAIRWOMAN WEINSTEIN: Okay. Thank
17 you.

18 And to follow up on -- I guess
19 Senator Gounardes was talking about the
20 corporate -- we've had a couple of people
21 talking about the corporate tax. Have you --
22 do you anticipate any behavioral changes in
23 New York's corporate franchise taxpayers
24 going forward if we continue the increased

1 rate?

2 ACTING COMMISSIONER HILLER: You know,

3 I don't. I don't think we anticipate that.

4 We're continuing a rate that is, as I said,

5 competitive with those of our neighbors. We

6 are -- our tax rate is not as high as some of

7 our neighbors.

8 And so I think that that -- we don't

9 expect that we would see changes in behavior

10 as a result of that.

11 CHAIRWOMAN WEINSTEIN: And speaking of

12 behavior, has the department seen any data

13 that suggest that the high-income earners are

14 leaving the state, based on the increase we

15 did in the '21-'22 enacted budget?

16 ACTING COMMISSIONER HILLER: We've

17 seen preliminary data that suggested that

18 there was an immediate react -- that there

19 was an uptick in outmigration of millionaires

20 in what was the new highest tax bracket.

21 But I want to be clear: One, we don't

22 know whether that's a trend or whether that

23 was a one-time spike. And we don't know

24 whether that has anything to do with taxes.

1 You know, my own life experience says
2 that the decision to move is a really
3 complicated one. You move for family, for
4 jobs, for affordability, for climate, for all
5 kinds of reasons. And tax may be one of
6 those reasons, but we at the Tax Department
7 can't know that taxes were the reason that
8 that taxpayer left.

9 So I can't say that there's -- that
10 there's causality, but we do see that there
11 was a spike in the highest income -- the
12 taxpayers reporting the highest incomes in
13 New York.

14 CHAIRWOMAN WEINSTEIN: And moving on
15 to the pass-through-entity tax, which also
16 was in the '21-'22 enacted budget, the
17 concept was that it would be revenue-neutral
18 over a two-year period of time.

19 So now that we've had the full year
20 collections, have you learned any more
21 information about the effects that it's had
22 on other tax collections and taxpayer
23 behavior?

24 ACTING COMMISSIONER HILLER: So I

1 would -- I would say that the
2 pass-through-entity tax continues to surprise
3 me every day. You know, it's a construct
4 that allows certain taxpayers to -- certain
5 business entities to pay their taxes
6 up-front, and then we reimburse the owners of
7 those businesses through an income tax
8 credit.

9 I think everybody was surprised by the
10 scale with which entities enrolled and paid
11 taxes in that first year, and that was right
12 at the end of 2021. And it was like
13 11.8 billion, somewhere around there.

14 And then we would expect to see the
15 credits going out to the owners of those
16 businesses in tax year '22.

17 The -- one of the things that I think
18 we found surprising is that, you know, about
19 20-something percent of the credits are being
20 carried forward to outyears. So they're
21 still -- we're still on the hook to pay these
22 credits, but we haven't paid them yet. And
23 that's two-point-something billion dollars
24 just in those carry-forward credits, because

1 we're talking about an \$11 billion swing from
2 the payments coming in from the entities and
3 then the credits going out to their
4 taxpayers.

5 I think overall the main thing it
6 speaks to is the impact of the SALT deduction
7 cap, because this is all about the SALT
8 deduction cap. And we had estimated what
9 that might mean for New Yorkers, and it turns
10 out that it really means a lot for
11 New Yorkers.

12 CHAIRWOMAN WEINSTEIN: Thank you.

13 And I misspoke; I am not the last
14 person to -- to speak. I skipped over my
15 colleague Assemblywoman Dickens, and she will
16 be the last member of our panel to ask a
17 question.

18 ACTING COMMISSIONER HILLER: Saved the
19 best for last.

20 ASSEMBLYWOMAN DICKENS: Thank you so
21 much, Chair.

22 Thank you, Commissioner, for your
23 testimony.

24 ACTING COMMISSIONER HILLER: Of

1 course.

2 ASSEMBLYWOMAN DICKENS: I want to
3 commend you and thank you for the --
4 hopefully you will roll out the STAR credits
5 by direct deposit, which will be a great
6 help.

7 The other thing is on the SCRIE and
8 the DRIE. I think that it's great that it
9 would be automatic, but it means sufficient
10 notice must be given to the residents and the
11 building owners in advance so that the
12 credits can be applied. That's the first
13 thing.

14 Has cannabis -- anticipated cannabis
15 tax revenue been calculated at all in your
16 projections?

17 ACTING COMMISSIONER HILLER: I believe
18 that there is a line for cannabis revenue in
19 the financial plan. I have to say I can't
20 speak to that specifically.

21 And, you know -- but I think that the
22 financial plan documents show anticipated
23 cannabis revenue in the financial plan.

24 ASSEMBLYWOMAN DICKENS: Thank you.

1 Well, with the fall of the GDP
2 continually, even though there was a
3 rebounding for a short time in the third
4 quarter; with the fact that in New York City
5 small businesses have closed up, the
6 brick-and-mortar stores are leaving and
7 closing down, retailers, including the small
8 and some of the larger stores have closed up;
9 with the fact that in New York City there's
10 at least a billion dollars in taxes annually
11 lost because of the shopping that goes across
12 the bridge -- even with the increase in the
13 bridge cost, they go across the bridge and
14 shop in New Jersey instead of New York --
15 we're aggressively talking about the 125 for
16 pre-K, 250 for learning loss, et cetera, the
17 24 billion commitment for education, health,
18 et cetera.

19 But with the small businesses that are
20 closing up that are losing -- that you will
21 not this year be able to collect on audit
22 cases because these businesses have paid and
23 some -- many have gone out of business, what
24 is the impact ongoing on this budget?

1 Because we're putting through numbers that I
2 think or it seems like to me that in outgoing
3 years is -- is going to be changed and
4 reduced rather than increased and enhanced.

5 ACTING COMMISSIONER HILLER: Well, I
6 mean, I certainly think that, you know, the
7 Division of Budget is --

8 ASSEMBLYWOMAN DICKENS: Can you speak
9 into the mic, please? I'm sorry.

10 ACTING COMMISSIONER HILLER: Oh, I'm
11 sorry.

12 I believe the Division of Budget is
13 forecasting an economic downturn, and I think
14 there's ongoing concerns that New York's
15 recovery has not been as robust as the
16 national economy as a whole coming out of
17 COVID.

18 So I think that all of those things
19 are concerns that should make us cautious as
20 we go forward.

21 ASSEMBLYWOMAN DICKENS: You know, with
22 the -- you know, there's an increase in
23 unemployment and it's projected to be an
24 ongoing increase in unemployment. And even

1 though they talk about in 2024 there being a
2 rebounding, history has shown that it is
3 doubtful that a rebounding will occur in full
4 or even partially in 2024.

5 With that, I'm seriously concerned
6 about the budget that's being put through for
7 taxation that may not be realistic to the
8 people.

9 Thank you.

10 CHAIRWOMAN WEINSTEIN: So I think
11 we'll leave the -- we'll leave it on that
12 note. How does that sound?

13 ACTING COMMISSIONER HILLER: That's
14 fine.

15 CHAIRWOMAN WEINSTEIN: So,
16 Commissioner Hiller, thank you so much for
17 being here. There may be a little bit of
18 follow-up --

19 ACTING COMMISSIONER HILLER: Of
20 course.

21 CHAIRWOMAN WEINSTEIN: But we are --
22 there are no further questions from the
23 legislators.

24 So we actually have just one panel

1 this year on taxes, and I'd like to call them
2 down: New York City Democratic Socialists of
3 America; Center for Popular Democracy; and
4 Fiscal Policy Institute.

5 And just as the three of you come to
6 the table, a reminder that all of your
7 testimony was received in advance, was
8 distributed to the legislators. Don't read
9 your testimony, because you'll never get to
10 the end of it.

11 And then there'll be like -- there may
12 be some questions from members of the panel.

13 Yes, if you can begin.

14 MS. EISNER: Oh, so I just begin,
15 okay.

16 Hi, everyone. Thank you for having me
17 here. My name is Emily Eisner. I'm a Ph.D.
18 economist educated at the University of
19 California at Berkeley, with a focus on
20 public finance and macroeconomics.

21 I was advised and have worked closely
22 with Christina Romer, who was the chair of
23 the White House Council of Economic Advisors
24 under Barack Obama, and Emi Nakamura, who was

1 a 2019 Clark Medal winner, and that's an
2 annual award celebrating economic
3 researchers, many of whom go on to win Nobel
4 Prizes in economics.

5 Before getting a Ph.D., I worked at
6 the Federal Reserve Bank of New York in the
7 financial research group on issues of
8 macroprudential financial regulation and
9 monetary policy implementation.

10 Today I'd like to emphasize a few
11 points from my written testimony that are
12 worthy of your consideration.

13 First, two recent polls have shown
14 that between 75 and 85 percent of New Yorkers
15 believe that the rich should pay higher
16 taxes. That is to say that 75 to 85 percent
17 of your constituents want to raise taxes on
18 the wealthy to pay for public goods and
19 services that make their lives better.

20 These polling data match the national
21 and global movement to increase taxation on
22 top earners by reforming tax laws and closing
23 tax loopholes that allow the wealthy to pay
24 less in taxes proportional to their income.

1 New York has a strong, healthy tax
2 base that can sustain higher tax rates on top
3 earners and corporations. The state is home
4 to one of the most beloved cities in the
5 world, with incomparable amenities, making it
6 a state that could truly lead a movement of
7 fair taxation.

8 Not only that, by raising taxes that
9 would afford the state the ability to improve
10 upon public amenities like the MTA and
11 childcare, New York would strengthen its
12 desirability as a place to reside, thus
13 strengthening the tax base and the welfare of
14 all New Yorkers.

15 Okay. Number two, income inequality
16 in New York has grown by between 10 and
17 30 percent since the year 2010 in all of the
18 top 10 largest counties in the state. Income
19 inequality is associated with lower life
20 expectancies, worse health and well-being,
21 and heightened social ills like violence.

22 As the most unequal state in the
23 country, New York has the second-highest
24 homelessness rate, is 29th in terms of child

1 well-being, 39th in terms of public hospital
2 safety, 49th in state and local education
3 funding equity, and nearly half of all
4 New Yorkers report trouble paying their
5 regular expenses on any given week.

6 At the same time, if New York were a
7 country, it would be the 10th richest country
8 in the world. On a per-capita basis,
9 New York is wealthier than the countries of
10 Norway, Denmark and Sweden, countries that
11 have demonstrated the capacity for robust
12 social services.

13 Thus there is no reason, given
14 New York's economic standing, that the state
15 should settle for less than number-one in
16 most economically just and robust in the
17 country.

18 Number three, in the past three years,
19 New York families have had to manage their
20 way through a global pandemic while
21 New York's millionaires and billionaires --
22 okay, cool. Look forward to answering
23 questions.

24 CHAIRWOMAN WEINSTEIN: So as we said,

1 we do have your written testimony. As I said
2 before. Three minutes goes fast, so just get
3 into the meat of the points you want to make.

4 Yes, please go.

5 MR. KHAN: Good afternoon, and good to
6 see you all. My name is Charles Khan. I am
7 the campaign coordinator for the Center for
8 Popular Democracy. I coordinate our state
9 and local tax campaigns. And it's very good
10 to be here with you today.

11 As you all have my testimony, I just
12 want to point to a couple of different things
13 in looking at the Governor's proposal for a
14 budget.

15 First, I did want to reiterate what
16 the other panelist had to say, is that taxes
17 on wealthy people in New York are very, very
18 popular. When the Legislature moved and did
19 that in 2021, we saw that eight out of 10
20 New Yorkers supported that. There was a poll
21 that was released to say that still says
22 eight of out 10 New Yorkers do that.

23 And I know that there's going to be a
24 lot of debate around who's moving where and

1 for what reason. But I do want to point to I
2 think a figure that's really, really
3 important when we think about state tax
4 policy. Right? Because the purpose of state
5 tax policy is to generate public money that
6 we can invest to make people's lives easier.

7 And since we increased the income tax
8 in New York State on folks that make more
9 than \$5 million a year and corporations that
10 make more than \$5 million in profits a year,
11 we have beaten tax estimates every single
12 quarter. Just last year New York State tax
13 receipts were 37 percent above estimates.
14 That's billions and billions of dollars.

15 And the Legislature, because of that,
16 has been able to make record investments in
17 public education, make record investments in
18 childcare, and do sort of the job that
19 New Yorkers want us to do.

20 And so that is really I think where
21 the focus is. And also it's a path for how
22 we can move forward. I think what we've seen
23 in this budget and what we've seen covered in
24 the media and the press is that affordability

1 is a deep, deeply felt issue for New Yorkers
2 across the board.

3 And so the question is, what are we
4 going to do to make New York more affordable
5 for working-class people? Because what we're
6 seeing at the very, very top of the income
7 scales is that those folks are making more
8 money than ever. Across the country,
9 corporate profits are at an all-time high.

10 And so when we ask about what are we
11 doing about affordability, and I look at the
12 Governor's budget, I would say that raising
13 fares on the MTA is not, is not making
14 New York more affordable. I notice that
15 she's not raising taxes on working -- income
16 taxes. But by raising MTA fares, that means
17 everyone that takes public transit in
18 New York City is paying more.

19 By raising the tuition at public
20 universities in New York, that means every
21 college student is paying more. And by
22 raising a payroll tax, that is going to be a
23 tax on workers.

24 Payroll taxes by far are the easiest

1 taxes for a business to pass on to the
2 worker, and that is what history has shown
3 us.

4 And so all of these methods are
5 raising costs on New Yorkers. But we have a
6 job to do, and so the question is how do we
7 do that job. And I think the clear answer
8 from the population is that raising taxes on
9 the wealthy is the way to go, particularly
10 corporations. The Governor's extension of
11 the corporate tax is -- for three years is
12 nice, but it should be permanent. And
13 because folks are bringing record profits at
14 the corporate level, there's a lot of room to
15 add there and really invest at the scale that
16 New Yorkers are asking us to do.

17 CHAIRWOMAN WEINSTEIN: Thank you.

18 Yes?

19 MR. GUSDORF: All right, thank you.

20 My name is Nathan Gusdorf. I'm the
21 executive director of the Fiscal Policy
22 Institute. Prior to coming to FPI, I was a
23 tax attorney and worked in the tax department
24 of Weil, Gotshal & Manges in New York City.

1 So let's start with a little bit of
2 context. It's possible that we're headed
3 into a mild recession. In the alternative,
4 we'll see what they call a soft landing.
5 Either way, it would be particularly
6 important that we focus on social spending at
7 this time.

8 At a national level we've seen two
9 recessions in the past decade -- the
10 recession after the Great Financial Crisis
11 and the recession caused by COVID.
12 Constrained spending at the federal
13 level forced the national economy to take
14 about 10 years to recover after the financial
15 crisis.

16 Conversely, you saw that the Biden
17 Administration stimulus during COVID really
18 shortened the recovery period and put us into
19 a much better economic position.

20 How's our population doing? Well, as
21 we just heard from the commissioner, we have
22 seen significant outmigration from the --
23 basically during the pandemic period and in
24 the immediate post-pandemic period.

1 Recently FPI did an analysis of those
2 migration patterns, and we compared the
3 savings on housing and rental costs to the
4 savings on taxes. And we found that on
5 average, the savings from housing and rental
6 costs were about 15 times greater than any
7 savings on taxes. You'll see that people
8 routinely move out of New York into
9 Connecticut and New Jersey, which are
10 basically states with comparable tax
11 structures.

12 Meanwhile, there's significant poverty
13 in the state and significant inequality. I'm
14 going to -- be happy to take questions on
15 that, but I want to move into talking about
16 what I think the Legislature and the Governor
17 should be thinking about in terms of new
18 revenue options.

19 So first of all, the personal income
20 tax, even though we recently had rate
21 increases on the highest earners, is still
22 pretty flat for the majority of taxpayers.
23 It's pretty flat from about \$200,000 to a
24 million dollars.

1 And the rates on the highest earners
2 could be considerably more progressive.
3 That's where about 60 percent of our revenue
4 comes from. It's the best source if we need
5 to pay for more stuff, and it really should
6 be the go-to tax policy option for funding
7 social spending.

8 At the same time, there are a number
9 of specific proposals that we could think
10 about, such as a state surtax on long-term
11 capital gains, which get a significant
12 federal benefit. We've done some revenue
13 estimates on options there which I'm happy to
14 talk about.

15 We also need to think about business
16 taxes in the suite of tax policy options that
17 are available to the state. Despite the
18 corporate rate extension, there's still a lot
19 of room to grow the corporate tax base and
20 our corporate tax revenue, including by
21 conforming to the GILTI provisions of the
22 2017 federal tax law that tax multinational
23 profit shifting. And we can also, on the
24 non-corporate business side, reduce the

1 rebate amount for the pass-through-entity
2 tax, just enough that people still elect into
3 the tax but the state could pick up a
4 billion, billion and a half dollars.

5 Finally, we should discuss wealth
6 taxation, particularly the taxation of
7 unrealized capital gains.

8 CHAIRWOMAN WEINSTEIN: Thank you.

9 Members, any questions?

10 Assemblyman Mamdamni -- sorry,
11 Mamdani.

12 ASSEMBLYMAN MAMDANI: Thank you.

13 And Chair, just to confirm, is it
14 three minutes for the entire panel or three
15 minutes per panelist? My question.

16 CHAIRWOMAN WEINSTEIN: Three total.
17 Three minutes.

18 ASSEMBLYMAN MAMDANI: Okay.

19 Thank you very much. My first
20 question is for Dr. Eisner.

21 Just connecting a little bit to your
22 testimony, is there any significant risk that
23 higher earners will leave the state if we
24 raise taxes on them?

1 MS. EISNER: I believe this came up in
2 the last panel. But the evidence that I've
3 looked at is that the most recent sort of
4 working paper on this subject looks really
5 closely at tax migration looking at the SALT
6 cap that was invoked in I guess 2018, and
7 basically shows that there is almost no tax
8 migration in response to the change -- the
9 relative change in state tax burdens around
10 that policy change.

11 To the extent that we've seen changes
12 since 2020, a lot of that is being explained
13 by the 2020 COVID-19 pandemic. And we would
14 expect to see sort of return to some
15 normalcy.

16 ASSEMBLYMAN MAMDANI: So you're saying
17 as a result of the pandemic, we can't really
18 isolate the factors of tax revenue, but prior
19 to the pandemic we have the evidence of the
20 SALT cap and we didn't see any impact on the
21 migration of high earners.

22 MS. EISNER: Correct.

23 ASSEMBLYMAN MAMDANI: Thank you.

24 To Mr. Gusdorf, a quick question. The

1 Fiscal Policy Institute recently released a
2 report stating that New York is losing
3 working-class New Yorkers as a result of
4 astronomical housing costs, not as a result
5 of changes to the tax code.

6 Can you describe the findings related
7 to this report?

8 MR. GUSDORF: Sure, thank you. That's
9 the report that I mentioned briefly about
10 comparing housing savings and tax savings.

11 So a few of the highlights would be
12 that, on average, mortgage costs went down
13 just over \$18,000 for people who moved out of
14 the state, whereas their tax savings were
15 about \$1200. Rental costs went down, I
16 believe over about \$5,000 for families that
17 moved out that were renters.

18 The other important dynamic to think
19 about in the context of that report is that
20 the New York City metro area is the kind of
21 relevant economic sphere, but that includes
22 suburbs in New Jersey and Connecticut. So a
23 significant number of the people moving out
24 of state were moving to those suburbs, not

1 moving to low-tax jurisdictions.

2 ASSEMBLYMAN MAMDANI: Thank you very
3 much.

4 And just a follow-up on different
5 reports specific to capital gains taxes in
6 New York. So in New York State currently
7 capital gains are taxed at the same rate as
8 income. Why should taxpayers who earn
9 capital gains income be made to pay at a
10 higher rate?

11 MR. GUSDORF: The basic theory of this
12 policy is that there's a very significant
13 federal tax benefit for capital gains that
14 overwhelmingly flows to the wealthy and the
15 ultrawealthy. And it's actually rational for
16 states to respond to bad federal tax policy
17 with reasonable surtaxes that offset that
18 benefit to the benefit of state revenues.

19 ASSEMBLYMAN MAMDANI: Thank you very
20 much.

21 CHAIRWOMAN KRUEGER: Thank you.

22 Senator Gounardes.

23 SENATOR GOUNARDES: Thank you.

24 Earlier there was a discussion made

1 about how -- I think a helpful point -- in
2 every quarter since we raised revenue, taxes
3 a few years ago, New York saw their tax
4 receipts grow. Some would say that's because
5 of the way New York's economy is able to
6 capitalize on the highs of the wave, but
7 sometimes on the way down we might hit the
8 lows of the low.

9 I'd love to hear your comment or
10 response to that.

11 MR. KHAN: So I think that's true of
12 any tax code, and it's reflective of how
13 unequal New York is. Right? New York has
14 the highest concentration of wealth in the
15 country. It has the worst inequality in the
16 country.

17 So any tax that we build that's
18 progressive -- and that means that, say, the
19 people and the corporations that reap the
20 most from New York should put the most back
21 in. Any tax that's built that way, which I
22 would say is the smart way, is going to reap
23 the most benefit when the highs are high, and
24 we're going to see some drop-off when the

1 lows are low.

2 SENATOR GOUNARDES: Thank you.

3 There was also mention made about the
4 relative flatness of the personal income tax
5 over \$200,000. What would you -- I'm sure
6 all three of you have, you know, studied
7 this. What do you project, either
8 collectively or individually, New York could
9 raise or could earn if we created more
10 progressivity in the personal income tax
11 rates at higher levels?

12 MR. GUSDORF: So the Fiscal Policy
13 Institute will be releasing a report on this
14 relatively soon; we're still conducting the
15 analysis. But we looked at restoring a
16 \$500,000 bracket from about 10 to 12 years
17 ago. And I'll follow up on the details.

18 I think that that could produce about
19 another \$500 million.

20 SENATOR GOUNARDES: Okay, thank you.

21 And there are lots of areas that this
22 budget invests in, lots of areas that it
23 doesn't invest in. In your opinions, where
24 do you see the home run for investment and

1 where do you see the swing and the miss for
2 no investment or disinvestment?

3 MR. KHAN: So I would say -- I was
4 here for the Economic Development
5 conversation, and I think childcare, public
6 education, that's where we're going to get
7 the biggest return on our dollar. And so
8 that's a great place to invest.

9 And I think as Nathan pointed to,
10 housing costs are really, really, really
11 high. And so as much as we can actually
12 invest to create affordable housing -- and I
13 don't mean that in the form of tax breaks for
14 wealthy developers; we've seen how 421-a did
15 not work.

16 But as much as we can invest in
17 actually building affordable housing, deeply
18 affordable housing that stays affordable, I
19 think all of those things are things that are
20 going to help the economy by our being able
21 to keep workers here because they can afford
22 to live here, and we're going to see sort of
23 -- in some cases 12-fold return on the
24 investment.

1 MS. EISNER: And to the extent that
2 421-a is a tax break, it will -- it is a
3 swing and a miss. It is giving handouts to
4 wealthy developers and producing inequality
5 further.

6 SENATOR GOUNARDES: Thank you.

7 CHAIRWOMAN KRUEGER: Assembly.

8 CHAIRWOMAN WEINSTEIN: Assemblyman Ra.

9 ASSEMBLYMAN RA: Thank you.

10 Mr. Gusdorf, you mentioned, you know,
11 that there are 60 percent of our PIT revenues
12 coming from that kind of class of taxpayers
13 in that window.

14 I guess my question is, one of the
15 arguments that's been made over the years is
16 that that leads it to be somewhat unsteady,
17 especially when you get into more difficult
18 times because you're reliant on a small set.
19 And, you know, we've seen in the past -- you
20 know, back in 2008 -- our revenues
21 plummeting.

22 So why is that not a concern to
23 perhaps increase the share that that small
24 window of taxpayers would be paying?

1 MR. GUSDORF: Yeah, thank you. I
2 mean, this is an important thing to think
3 about, and I think there are a few different
4 tax policy principles and purposes that we
5 have to keep in mind.

6 So the fundamental one -- maybe the
7 fundamental two -- are really stability and
8 progressivity. It's important that the
9 burden be distributed fairly, and it's also
10 important that we have sustainable revenues.

11 I think in a way the short answer is
12 just that the rich in New York are so rich
13 that they're going to end up bearing a lot of
14 the tax burden. And the only way to change
15 that would be to seriously undertax them.

16 And so we have to have other ways to
17 ensure fiscal stability, and one of them is
18 think about how we deal with reserves,
19 particularly around, say, income streams that
20 tend to fluctuate more, such as capital
21 gains. So while we think it would be
22 rational to have a capital gains tax policy
23 that composes a state surtax, that would also
24 be a revenue stream that you'd want to make

1 sure, you know, does not jack up recurring
2 spending only in the years when you have high
3 capital gains receipts.

4 But it would be a great revenue stream
5 to try to spread over multiple years. Some
6 years you have really high bonuses due to
7 really high transactional activity. There's
8 no reason to artificially reduce the tax
9 rates on that income just because you're
10 worried about the fickleness of it. But you
11 can still have a pro-stability policy.

12 ASSEMBLYMAN RA: Well, I'm not
13 necessarily saying reduce it, but I am saying
14 that increasing that share that they make up
15 is what concerns me.

16 MS. EISNER: May I interject a moment?

17 ASSEMBLYMAN RA: Oh, sure.

18 MS. EISNER: Another reason why this
19 is -- your question is important is that
20 raising taxes on the rich -- currently in
21 New York inequality has created a massive
22 misallocation problem in economic terms.
23 We're not investing in the right people and
24 the right infrastructure.

1 By raising taxes on the rich we will
2 increase education, which ultimately will
3 provide a better tax base and more robust tax
4 base over the long run.

5 ASSEMBLYMAN RA: So I was going to ask
6 another question; I don't have time. But I
7 would just state one of my --

8 CHAIRWOMAN WEINSTEIN: (Mic off;
9 Inaudible.)

10 ASSEMBLYMAN RA: I'm not sure. Well,
11 no, it's a nongovernmental -- but just in
12 terms of, you know -- you know, I completely
13 lost my train of thought as you were asking
14 it, so --

15 (Laughter.)

16 ASSEMBLYMAN RA: So I -- it was a ploy
17 to make me lose my train of thought.

18 Oh, what I was going to say, just, you
19 know, one of the numbers we look at --
20 obviously we've seen, right, there's a lot of
21 people doing really well right now. But in
22 terms of our share of millionaires, it's been
23 going down and we've seeing more of it in
24 some of those other, you know, states that

1 people tend to talk about, the Floridas and
2 the Texases.

3 But I thank you guys for being here
4 today, and your patience.

5 CHAIRWOMAN WEINSTEIN: Thank you.
6 Sorry. Assemblyman Zebrowski --

7 CHAIRWOMAN KRUEGER: No, we go back to
8 Senators.

9 CHAIRWOMAN WEINSTEIN: Oh, okay.

10 CHAIRWOMAN KRUEGER: You're getting
11 tired, it's okay.

12 CHAIRWOMAN WEINSTEIN: Thirty, almost
13 40 hours of hearings. Its sort of grinds at
14 you.

15 CHAIRWOMAN KRUEGER: I know.

16 Senator Murray.

17 SENATOR MURRAY: Thank you. And thank
18 you, Chairwoman.

19 And thank you for being here.

20 I'm going to kind of piggyback on
21 where Assemblyman Ra just left off when he
22 talked about the wealthy leaving.

23 So I guess it depends on where we're
24 getting our information. I'm looking at an

1 article on "Moneywise" from Yahoo News from
2 just about two weeks ago that says: "Between
3 2019 and 2020 the number of New Yorkers
4 earning between \$150,000 and \$750,000 fell by
5 nearly 6 percent. Moreover, the number of
6 real high earners, those making over
7 \$750 million, dropped by nearly 10 percent
8 during that same period. Some speculate the
9 wealthy elites are leaving because of the
10 state's high tax rates."

11 But it goes, for perspective: "The
12 41,000 filers in the city's top 1 percent pay
13 more than 40 percent of all the income taxes.
14 The 450,000 filers in the top 10 percent pay
15 about two-thirds of all the income taxes."

16 In other words, the remaining
17 90 percent of taxpayers contribute about
18 one-third of the city's income tax revenue.

19 And I had heard you mention that a lot
20 of them are leaving for New Jersey or
21 Connecticut. Again, according to this
22 report, the wealthy are going to -- the top
23 two states -- Florida and Texas.

24 But I also want to point this out.

1 Have you calculated in your figures and your
2 statistics the philanthropic aspect of it?
3 Because while the federal government's taken
4 a lot of incentives away as far as giving tax
5 breaks for donating, there are still
6 donations being made by the wealthy to
7 libraries and hospitals and not-for-profits.
8 When they leave the state, they're taking
9 those donations with them too.

10 Have you figured into your figures how
11 that affects the -- you know, those that
12 aren't wealthy or well-to-do?

13 MR. GUSDORF: So at least from FPI's
14 perspective, I don't think that we -- we
15 haven't looked at that data. I don't know if
16 we have access to that data. On the top of
17 the report, is that -- that sounds like it's
18 city data, like it's IBO data.

19 SENATOR MURRAY: That one was from the
20 city, yes.

21 MR. GUSDORF: Yeah, because we looked
22 at those numbers and a lot of the people -- a
23 lot of the -- we don't have state data on who
24 earns on the \$750,000 bracket, but the city

1 data showed that a lot of those people were
2 moving upstate. So that was really movement
3 out of the city during the pandemic, the sort
4 of movement that doesn't affect the state's
5 tax base, and that we would also expect to
6 change --

7 SENATOR MURRAY: These figures said
8 out of state, the 10 percent were out of
9 state. That they went to Florida and --
10 well, they didn't say all of them went to
11 Florida and Texas. They said the top two
12 states were Florida and Texas. But the
13 10 percent moved out of New York.

14 MR. GUSDORF: Yeah, they also say that
15 that's -- that the Florida and -- I mean, I
16 don't know what that article is, but I know
17 that we looked at IBO data on highest earners
18 and we also have looked at the migration
19 patterns, and it's -- I think that's not
20 consistent with the other sources that we've
21 seen, to say that the top two states are
22 Texas and Florida.

23 SENATOR MURRAY: I've heard different
24 as well.

1 MS. EISNER: And I would say that
2 the -- you know, like the top line of
3 economic research on this suggests that tax
4 migration out of the state in 2020 made up
5 0.75 percent of the population earning
6 \$500,000 or more. So it's a tiny percent.
7 And each additional percent of raise in taxes
8 is causing on the order of 10 individuals to
9 leave, at most. So --

10 SENATOR MURRAY: I think that was
11 during the pandemic too, when they --

12 MS. EISNER: That's at the max, yeah,
13 that's --

14 CHAIRWOMAN KRUEGER: Thank you.
15 Sorry.

16 Assembly?

17 CHAIRWOMAN WEINSTEIN: We go to
18 Assemblyman Zebrowski.

19 ASSEMBLYMAN ZEBROWSKI: Thank you.

20 This is a balance, right? To try to
21 balance the right amount of taxation with the
22 right amount of services to foster the most
23 robust economy we can.

24 I'm interested whether your position

1 is that there is no point of diminished
2 return in your data or that we just haven't
3 reached it yet.

4 MS. EISNER: The evidence would
5 suggest that we most certainly have not
6 reached the point of diminishing returns yet.
7 Absolutely, we have not. In fact, when
8 states have lowered taxes to try to bring in
9 wealthy people, that has diminished state
10 revenues. So if anything, the mistake that
11 could be made is to lower taxes.

12 And to the question about is there a
13 point of diminishing returns, I think -- if
14 you're talking about state policy, I think
15 unfortunately we live in a world where there
16 is a race to the bottom on state taxes. That
17 is why multiple states currently are
18 collaborating to try to create a wealth tax
19 on unrealized capital gains so that there is
20 a sort of nationwide agreement and not this
21 like race to the bottom that hurts everyone.

22 But I don't think that that's even
23 really a relevant question, because we're so
24 far from the point of diminishing return.

1 ASSEMBLYMAN ZEBROWSKI: Well, that was
2 sort of my second question, is like do you --
3 when you testify, you know, before the
4 Legislature and talk to legislators, do you
5 attempt to try to identify what you think is
6 the appropriate level of taxation? Because
7 certainly New York isn't at the bottom or
8 even at the middle in terms of taxes, right?
9 We're towards the high.

10 So, you know, what do you try -- sure,
11 go ahead. What do you try in terms of
12 setting what the right number is?

13 MR. KHAN: Yeah, so I don't
14 necessarily think we try and set the right
15 member. But Dr. Cristobal Young, a Cornell
16 professor -- he also worked in the Biden
17 administration -- he studied all of the
18 federal tax data from 1960 until about the
19 year 2000. And he's a sociologist by trade,
20 so he looked at why, if millionaires do move,
21 like what does the millionaire migration look
22 like.

23 And ultimately he said that
24 millionaire migration due to taxation is

1 very, very little. And that in order -- and
2 because the majority of high-income earners
3 stay, you would have to raise the tax rate in
4 any particular state almost 25 percent to get
5 to a level of diminishing returns.

6 ASSEMBLYMAN ZEBROWSKI: I've only got
7 20 seconds left. That would be interesting.
8 You know, maybe you could send me that study.

9 MR. KHAN: Absolutely.

10 ASSEMBLYMAN ZEBROWSKI: My question
11 is, you know, when we look at some of the
12 proposed taxes and you talk about a wealth
13 tax, I mean, that would be a significant tax
14 that's never been tried before or studied
15 before. Right? No other state has done
16 that. So how would we know?

17 MR. GUSDORF: It's a cliff-hanger.

18 MS. EISNER: We can follow up with
19 information.

20 ASSEMBLYMAN ZEBROWSKI: Okay. Thank
21 you.

22 MR. GUSDORF: Well, it's hard to know
23 with the wealth tax. But the estimates are
24 really about income taxes. And it's a lot

1 higher than anybody thinks, basically.

2 CHAIRWOMAN WEINSTEIN: Thank you.

3 We're going to go to the Senate.

4 CHAIRWOMAN KRUEGER: Thank you.

5 And I think I'm closing for the

6 Senate.

7 So we've had lots of discussion, both

8 in Economic Development and here, about tax

9 rates and who are they affecting and who's

10 doing what.

11 My question is, do we really need to

12 just evaluate a new approach to how we tax?

13 Because the world has changed so much, the

14 models of business have changed so much.

15 Just three quick examples. Helene and

16 I have been trying to get a bill signed by

17 the Governor that would go after basically

18 out-of-state corporations and wealthy

19 individuals who just don't pay their taxes in

20 New York even though they're making their

21 money here in New York. And we're having

22 trouble just getting that simple concept of

23 tax cheaters ought to have to pay their

24 taxes. And that does so much harm to

1 everyone's belief in the tax system being
2 fair.

3 We have a world where these -- excuse
4 me, these new kinds of companies, Uber, Lyft,
5 others, they don't pay taxes, they don't pay
6 into unemployment for their workers, they owe
7 government, in my opinion, unbelievable
8 amounts of money. When I was here today
9 Britain was declaring they're going after
10 Uber for the VAT they owe them -- the exact
11 same issues, different country.

12 And then a few of us actually have
13 bills recognizing that the whole world is now
14 taking our personal data, selling it, making
15 a fortune, but we don't tax that. And of
16 course we don't have brick-and-mortar stores;
17 everybody buys online. So don't we need to
18 just completely reevaluate what we fail to
19 tax? Because there's a whole lot of money
20 there on the table I believe we should be
21 getting. We're not. And then we fight over
22 who's paying what rate when there's all this
23 money out there that we should be getting
24 that we don't even have a model to get.

1 What do you think?

2 MR. GUSDORF: So I'm happy to speak to
3 this. And I would say it's a hearty yes and
4 a hearty no.

5 The most famous tax policy adage is
6 "An old tax is a good tax." The idea being
7 kind of build -- taxes are very hard to
8 administer and they're very complex, so build
9 within the system you have that you know
10 works.

11 And we do still have really strong
12 receipts from our personal income tax. And
13 we currently have very strong business tax
14 receipts. But I think you've identified a
15 lot of major issues that can be addressed
16 within those frameworks.

17 So one big issue that's in the news a
18 lot: Billionaires pay very little income tax
19 because they don't realize their gains and
20 they use a lot of debt to finance their
21 lifestyle. You could use a mark-to-market
22 mechanism to -- like this is the Biden
23 minimum income tax for billionaires proposal.

24 Uber, it's really an employment law

1 issue.

2 There's another one I that wanted to
3 bring up that I've forgotten about --

4 MS. EISNER: Multinational?

5 CHAIRWOMAN KRUEGER: You sign up for
6 anything, they sell your data --

7 MR. GUSDORF: Oh, pass-throughs. One
8 of the biggest trends in taxation is the
9 shift to the use of pass-through entities.

10 So we should really be looking at
11 entity-level taxes for pass-through
12 businesses.

13 CHAIRWOMAN KRUEGER: Thank you. Thank
14 you.

15 CHAIRWOMAN WEINSTEIN: Thank you.

16 There are no further questions. Thank you
17 all for being mere.

18 And this is going to conclude our
19 fifth hearing, budget hearing, the Taxes
20 hearing.

21 The next joint committees will convene
22 on Monday for the Human Services budget
23 hearing, starting at 11:30 a.m.

24 CHAIRWOMAN KRUEGER: Thank you,

1 everyone.

2 MR. GUSDORF: Thank you.

3 MS. EISNER: Thank you.

4 MR. KHAN: Thanks.

5 (Whereupon, at 5:13 p.m., the budget

6 hearing concluded.)

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