

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

2 -----

3 JOINT LEGISLATIVE HEARING

4 In the Matter of the  
5 2024-2025 EXECUTIVE BUDGET  
ON TAXES

6 -----

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

9 February 14, 2024  
10 9:34 a.m.

11 PRESIDING:

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

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

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  
20 Chair, Committee on Real Property Taxation

21 Assemblyman Brian D. Miller

22 Senator Dean Murray

23 Assemblywoman Jo Anne Simon

24 Senator John C. Liu

1 2024-2025 Executive Budget  
Taxes  
2 2-14-24

3 PRESENT: (Continued)

4 Assemblyman Erik M. Dilan

5 Senator Bill Weber

6 Assemblywoman MaryJane Shimsky

7 Assemblyman Zohran K. Mamdani

8 Senator George M. Borrello

9 Assemblyman Edward C. Braunstein

10 Senator Brad Hoylman-Sigal

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1 2024-2025 Executive Budget  
Taxes  
2 2-14-24

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4 LIST OF SPEAKERS

5 STATEMENT QUESTIONS

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

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9 Warren Wheeler  
Executive Director  
New York State Assessors  
10 Association  
-and-  
11 Nathan Gusdorf  
Executive Director  
12 Fiscal Policy Institute  
-and-  
13 James Inniss  
Public Safety Advocate  
14 New York Communities for Change  
-and-

15 Carolyn Martinez-Class  
Campaign Manager  
16 Invest in Our New York  
-and-

17 Rebecca Garrard  
Deputy Director of Campaigns  
18 and Movement Politics  
Citizen Action of New York

19 -and-  
Michael Kink

20 Executive Director  
Strong Economy for All

21 Coalition

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1 CHAIRWOMAN WEINSTEIN: Good morning.

2 This is the budget hearing on Taxes,  
3 and the last day of budget hearings for this  
4 year. I'm Helene Weinstein, chair of the  
5 Assembly Ways and Means Committee and cochair  
6 of today's hearings.

7 Today we begin the 12th in a series of  
8 hearings conducted by the fiscal committees  
9 of the Legislature regarding the Governor's  
10 proposed budget for fiscal year 2024-'25.  
11 The hearings are conducted pursuant to the  
12 New York State Constitution and the  
13 Legislative Law.

14 Today the Assembly Ways and Means  
15 Committee and the Senate Finance Committee  
16 will hear testimony concerning the Governor's  
17 proposal for taxation. After this hearing  
18 there will be a second hearing on Housing, if  
19 people are tuning in and wondering.

20 I'd like to now introduce the members  
21 from the Assembly that are here with us  
22 today, and then Senator Gounardes, who is the  
23 chair of the Revenue Committee, will  
24 introduce the members of the Senate.

1           So we have with us today Assemblywoman  
2 Williams, who is chair of our Real Property  
3 Tax Committee. We have Assemblyman  
4 Braunstein, Assemblyman Mamdani,  
5 Assemblywoman Shimsky and Assemblyman Dilan.

6           And Senator Gounardes, would you like  
7 to introduce your colleagues?

8           SENATOR GOUNARDES: Good morning.  
9 I'll do my best Liz Krueger impression today,  
10 as chair of the Committee on Budget and  
11 Revenue.

12           We are joined so far by the ranker on  
13 the Finance Committee, Senator O'Mara;  
14 Senator Liu; Senator Weber, the ranker on the  
15 Budget and Revenue Committee; as well as  
16 Senator Borrello.

17           CHAIRWOMAN WEINSTEIN: Assemblyman Ed  
18 Ra is the ranker on Ways and Means.

19           ASSEMBLYMAN RA: Thank you.

20           Right now we are joined by  
21 Assemblyman Brian Miller, our ranker on  
22 Real Property Taxation.

23           CHAIRWOMAN WEINSTEIN: Thank you.

24           So let me just give some ground rules

1 both for witnesses and for the members.

2 The governmental witness, our Tax  
3 commissioner, Amanda Hiller, will have  
4 10 minutes. The nongovernmental witnesses  
5 that will come later will have three minutes  
6 each. They will be in a panel. And after  
7 all of them speak, then there will be time  
8 for the questions.

9 In terms of questions, the chairs of  
10 the relevant committee will have 10 minutes  
11 to ask questions of the governmental witness,  
12 and all other members will have three  
13 minutes.

14 And when we get to the nongovernmental  
15 witness panel, all members will have three  
16 minutes.

17 The chairs of the relevant committees  
18 are the only ones who have a second round  
19 with the governmental witness of three  
20 minutes.

21 And then just sort of a warning to  
22 everybody. Your testimony has been received,  
23 is posted. Please don't read word for word.  
24 Somehow the time clock goes much faster than

1           you think.

2                     And speaking of the time clock,  
3           there's a green button that means it's time  
4           to go, to speak. The yellow button means  
5           there's a minute left. And the red button  
6           means you're finished.

7                     And just so members know to tell both  
8           myself and Senator Gounardes that they wish  
9           to speak.

10                    So with that -- with that, I'd like to  
11           introduce the -- are you still acting  
12           commissioner? Okay -- acting commissioner  
13           and general counsel of the Department of  
14           Taxation and Finance, Amanda Hiller.

15                    Oh, that's also -- there's -- you  
16           press it kind of -- they're new mics, and the  
17           ring will turn green. There you go.

18                    DTF ACTING COMMISSIONER HILLER: There  
19           we go. Is that okay?

20                    CHAIRWOMAN WEINSTEIN: Sounds good.

21                    DTF ACTING COMMISSIONER HILLER: Okay,  
22           great.

23                    Good morning, Senator Gounardes,  
24           Assemblymember Weinstein, members of the

1 fiscal committees. I'm Amanda Hiller, acting  
2 commissioner and general counsel of the  
3 Department of Taxation and Finance. Thank  
4 you for this opportunity to discuss Governor  
5 Hochul's 2025 Executive Budget and the  
6 operations of the Tax Department.

7           When I appeared before you last year,  
8 I warned of risks on the horizon. The main  
9 concern at the time was that the tightened  
10 monetary policy we needed to combat inflation  
11 could cause a recession. Today it appears we  
12 may have avoided the recession we feared.  
13 Still, New York's economic recovery continues  
14 to lag behind the national recovery.

15           As we feared, the weakening of tax  
16 receipts we saw in fiscal year 2023 did  
17 continue in 2024, and the Division of the  
18 Budget projects that tax receipts, although  
19 improving, will remain well below 2023 levels  
20 in fiscal years '25 and '26, largely due to  
21 weaker personal and business income tax  
22 receipts. Job growth and wage growth are  
23 slowing, and affordability remains a pressing  
24 concern for too many New Yorkers.



1           Governor Hochul recognizes these  
2 challenges and has proposed a responsible  
3 state budget to support our ongoing economic  
4 recovery. The Governor's budget proposal  
5 makes targeted investments in mental health,  
6 public safety, housing and education that  
7 will benefit all New Yorkers, without raising  
8 taxes. In addition, her budget proposal  
9 devotes an unprecedented level of resources  
10 to address the needs of recent migrants.

11           The Executive Budget includes several  
12 revenue-related proposals, but there are two  
13 that stand out. First, the Governor has  
14 proposed to improve sales tax compliance in  
15 the short-term vacation rental industry. I  
16 suspect that most individual hosts don't  
17 realize they are responsible for collecting  
18 the sales taxes due on their rentals. The  
19 Executive Budget proposes to shift those  
20 sales tax responsibilities from individual  
21 hosts to the internet platforms that  
22 facilitate rentals and collect the rental  
23 charges, just as we did when we shifted sales  
24 tax responsibilities from small individual

1 sellers to Amazon and similar internet  
2 marketplaces.

3 Hotels already collect and pay over  
4 sales taxes on the rooms they rent. By  
5 making this change, we will ensure that  
6 short-term vacation rentals follow those same  
7 rules.

8 The Executive Budget also proposes to  
9 make an important change to New York's  
10 adult-use cannabis taxes. The Marijuana  
11 Taxation and Regulation Act imposed a  
12 distributor-level tax on adult-use cannabis  
13 that is measured by the THC content of  
14 cannabis products.

15 Cannabis growers and others have  
16 complained that this "potency tax" is  
17 unwieldy, largely because it requires testing  
18 that is both expensive and unreliable, and  
19 they have called for the elimination of this  
20 tax.

21 Governor Hochul recognizes the  
22 challenges posed by the potency tax, but she  
23 also understands the importance of having a  
24 distributor-level tax in order to combat the

1 sale of illicit cannabis. The Executive  
2 Budget proposal would repeal the current  
3 complex potency tax and replace it with a  
4 simple price-based tax.

5 I believe the enactment of these  
6 proposals will streamline and simplify tax  
7 compliance, thereby improving the fairness  
8 and effectiveness of New York's tax laws.

9 At the Tax Department, we strive every  
10 day to ensure the fairness and effectiveness  
11 of our administration of the tax laws you've  
12 already enacted. Last year, the  
13 3,800 members of Team Tax processed more than  
14 27 million tax filings and closed  
15 750,000 audit cases as we worked to collect  
16 \$147 billion in tax revenues that support the  
17 delivery of state and local government  
18 programs and services.

19 We issued \$14.4 billion in income tax  
20 refunds to 7.4 million taxpayers --  
21 92 percent in 30 days or less -- and we  
22 delivered close to 1 million STAR property  
23 tax relief checks to homeowners across the  
24 state.

1           We are able to operate at this scale  
2           only by leveraging sophisticated information  
3           technology platforms. We're now in Year 3 of  
4           a five-year Tax Modernization Project to  
5           improve the flexibility and interoperability  
6           of our systems, which will allow us to be  
7           more nimble as we evolve our operations to  
8           respond to changing laws and expectations and  
9           work to ensure fair and equitable outcomes  
10          for all of our current and future customers.  
11          I'm pleased to report that we are on budget  
12          and ahead of schedule.

13           We are also pursuing parallel projects  
14          that leverage technology to improve the  
15          taxpayer experience. This year, following a  
16          successful pilot project on Long Island, we  
17          will be offering homeowners across the state  
18          the option of receiving their STAR credits by  
19          direct deposit, which is faster, easier,  
20          safer, greener and cheaper than sending paper  
21          checks through the mail.

22           We also recently implemented a  
23          call-back feature at our call center so  
24          taxpayers no longer have to wait on hold to

1 get their tax questions answered.

2 Finally, as you may have heard, the  
3 IRS is piloting the Direct File Program that  
4 will allow taxpayers to prepare and file  
5 their federal tax returns for free. New York  
6 is one of four states partnering with the IRS  
7 to pilot parallel Direct File tools for state  
8 tax returns.

9 I'm excited about this pilot project,  
10 which accepted its first New York return  
11 yesterday. I think it's the future of tax  
12 filing. At the same time, we need to be  
13 cautious as we test this program in New York.  
14 This early pilot phase of the program will  
15 not be right for all New Yorkers because it  
16 will only be accepting limited types of  
17 income, deductions and credits.

18 We're currently testing the new tools  
19 with a very small pool of taxpayers. If this  
20 testing goes well, we expect Direct File will  
21 be a great option for about 10 percent of  
22 New York income tax payers later this spring.  
23 Although this pilot will not be the right tax  
24 preparation option for most New Yorkers this

1 year, we will learn from this pilot so we can  
2 expand it to serve all New Yorkers in the  
3 future.

4 To conclude, I remain incredibly proud  
5 of the work we are doing at the Tax  
6 Department. I'm excited about the  
7 initiatives we are pursuing and look forward  
8 to working with you to move them forward.

9 I'm happy to take any questions.

10 CHAIRWOMAN WEINSTEIN: Thank you.

11 So we go to our chair of Real Property  
12 Tax, Assemblywoman Williams.

13 ASSEMBLYWOMAN WILLIAMS: Thank you  
14 very much. (Mic issues.) I have a few  
15 questions. Do I just -- all at once? Okay.

16 So first, the return of foreclosure  
17 excess to property homeowners. As you may  
18 know, the Executive proposes to amend the  
19 Real Property Tax Law to ensure that surplus  
20 funds resulting from tax foreclosure sales  
21 are returned to the former owner, thereby  
22 addressing the recent Supreme Court ruling  
23 Tyler v. Hennepin County, from Minnesota.

24 Two questions here. Has the

1 department received any feedback from local  
2 government about this proposal? And would  
3 the individual be required to endure any  
4 further litigation in order to claim their  
5 surplus?

6 DTF ACTING COMMISSIONER HILLER: So  
7 there was an Executive Budget proposal last  
8 year in anticipation of the Supreme Court's  
9 decision in Tyler v. Hennepin County.

10 And for those who aren't familiar,  
11 New York is one of a very small number of  
12 states that historically have allowed local  
13 governments to retain the surplus when they  
14 sell property for outstanding property tax  
15 debts.

16 And the case that was before the  
17 Supreme Court in Minnesota, I think a lot of  
18 observers expected the decision that the  
19 Supreme Court ultimately rendered, which is  
20 that retaining that surplus is an  
21 unconstitutional taking.

22 And so there was an Executive Budget  
23 proposal last year to try to address --  
24 develop a foreclosure process to return those

1 surplus funds. Our staff has engaged with  
2 local governments last year with regard to  
3 that proposal, which ultimately was not  
4 adopted. I think there was -- I think a lot  
5 of folks still held hope that the  
6 Supreme Court wouldn't ultimately render the  
7 decision they rendered.

8           And since then, the proposal has been  
9 refined. There's been a lot of engagement,  
10 primary with local government attorneys about  
11 the proposal. It's still a challenge for  
12 local governments. I think there are many  
13 local governments who have used the surplus  
14 funds they have retained to help fund local  
15 programs and services. And so having those  
16 funds no longer available will be a financial  
17 challenge for some local governments.

18           But it remains the law of the land now  
19 that we have to return it, so there needs to  
20 be a process to ensure that that happens  
21 smoothly.

22           The proposal that the Executive has  
23 put forward would provide for the payment of  
24 outstanding liens on a property from the



1 surplus before the remaining surplus gets  
2 paid over to the property owner, much the way  
3 those outstanding liens are paid in a  
4 mortgage foreclosure process now.

5 And I think that that's a careful  
6 balance, because we don't want to be in a  
7 position where we're returning a surplus to a  
8 property owner with those liens outstanding.

9 ASSEMBLYWOMAN WILLIAMS: Okay.

10 Next, to clarify the taxable status of  
11 telecommunications property, the Executive  
12 proposes to clarify that property used  
13 primarily or exclusively for the transmission  
14 of radio, television or cable television  
15 shall not be considered taxable real  
16 property.

17 Why is property that primarily  
18 transmits mobile internet signals considered  
19 taxable property, but other property is not?  
20 And do you foresee this proposal having any  
21 significant local fiscal impact?

22 DTF ACTING COMMISSIONER HILLER: So I  
23 think beginning in 1987, cable equipment,  
24 cable -- the cables for cable television and

1 other cable transmission equipment -- was  
2 exempted from real property tax. And it's  
3 defined in the law as not being real property  
4 for purposes of the real property tax.

5           These days I think we all know that  
6 the distinction between cable service and  
7 other broadband internet services is  
8 blurring. And the -- there are a number of  
9 broadband internet providers who have sought  
10 to avail themselves of the exemption that's  
11 on books for cable television by saying,  
12 Well, we also transmit news and radio --  
13 entertainment information.

14           There have been a number of court  
15 decisions that have shut down that argument,  
16 but the litigation persists. And that  
17 litigation creates delays in the finalization  
18 of property taxes for local communities. So  
19 we've advanced this proposal to provide  
20 certainty in the hopes of ending that  
21 litigation.

22           It may be that this proposal is less  
23 important today because there was an  
24 appellate decision from the Third Department

1 recently that is pretty definitive on this  
2 question, and it may serve to shut down this  
3 litigation going forward.

4 And then on the different question of  
5 why -- you know, I wasn't around to do this  
6 in 1987, but my understanding is that cable  
7 was a fledgling industry at the time and  
8 there was a desire to ensure that it was  
9 expanded.

10 And, you know, I think there are  
11 different questions to be asked here. If  
12 there's a policy desire to treat broadband  
13 equipment the same way we're treating cable  
14 equipment, we could either exempt both or tax  
15 both. I tend to be -- you know, I have  
16 concerns about the fairness of our tax base  
17 already. And so I'm always a little suspect  
18 when we're exempting for-profit industries  
19 from property taxes. And so if it were me, I  
20 would probably tax them both.

21 But I can understand at the same time  
22 that we have a desperate need to expand  
23 broadband access, especially in our upstate  
24 communities. And it might be that the right

1 answer is to treat broadband the way we've  
2 historically treated cable in order to help  
3 subsidize that industry and expand it in  
4 communities where there's a very real need.

5 ASSEMBLYWOMAN WILLIAMS: Okay.

6 Last question. This has to do with  
7 creating a new tax abatement for rental  
8 housing construction.

9 The Executive proposes to establish a  
10 new property tax incentive program in  
11 New York City to incentivize the construction  
12 of new rental housing, contingent upon a  
13 memorandum of understanding between the  
14 largest real estate trade developer  
15 association and the largest building and  
16 construction worker trade association.

17 The question here: Why doesn't this  
18 proposal directly outline wage standards  
19 instead of leaving these standards to be  
20 determined by an MOU?

21 DTF ACTING COMMISSIONER HILLER: I  
22 wish I had an answer to that question, but I  
23 think it is more properly posed at the  
24 Housing hearing later this afternoon.

1           Although this exemption would sit in the  
2           Real Property Tax Law, I think it has  
3           historically been the subject of housing  
4           policy negotiations and housing policy  
5           debate. And the Tax Department was not part  
6           of the development of this proposal.

7                     ASSEMBLYWOMAN WILLIAMS: And does the  
8           department have any idea of the fiscal impact  
9           at a local level for this?

10                    DTF ACTING COMMISSIONER HILLER:  
11           Again, no, we weren't -- we -- this is, you  
12           know, I think traditionally considered to be  
13           housing policy, just as 421-a is  
14           considered -- was considered to be housing  
15           policy. And the Tax Department is not  
16           especially involved there.

17                    ASSEMBLYWOMAN WILLIAMS: Okay. That's  
18           it.

19                    DTF ACTING COMMISSIONER HILLER: But  
20           you do still have a chance at the Housing  
21           hearing later.

22                    CHAIRWOMAN WEINSTEIN: Thank you.  
23           Senator Gounardes.

24                    SENATOR GOUNARDES: There we go.

1 Thank you.

2 We've also been joined now by  
3 Senators Murray and Hoylman.

4 And we will start with Senator Liu,  
5 for three minutes.

6 SENATOR LIU: Thank you, Mr. Chairman,  
7 for letting me go first on the Senate side.  
8 It's the first time.

9 (Laughter.)

10 SENATOR LIU: I'll get a lottery  
11 ticket later.

12 Thank you, Commissioner, for joining  
13 us today. And I have heard from constituents  
14 that the department is improving its  
15 operations, so I concur with some of the  
16 improvements that you've highlighted in your  
17 opening testimony.

18 I have just a couple of relatively  
19 technical questions. One has to do with the  
20 Executive's proposal to extend the sales tax  
21 exemption related to the Dodd-Frank  
22 Protection Act for another three years. Are  
23 you familiar with what I'm referring to?

24 DTF ACTING COMMISSIONER HILLER: I am.

1                   SENATOR LIU: And the Executive's  
2 saying that there's no fiscal impact for  
3 extending this for another three years.  
4 Doesn't there have to be a fiscal impact?

5                   DTF ACTING COMMISSIONER HILLER: I  
6 think there has to be a fiscal impact, but I  
7 don't think we can quantify it. And I don't  
8 think that it represents a change to the  
9 financial plan.

10                   And I think that that may be why  
11 there's no fiscal, you know, listed on the  
12 plan. So one of the --

13                   SENATOR LIU: Does the financial plan  
14 from previous years already assume or presume  
15 that there would be an extension?

16                   DTF ACTING COMMISSIONER HILLER:  
17 Right. Well, I think that -- so one of the  
18 things that the Dodd-Frank Act did is it  
19 required large financial services industries  
20 to spin out many of their back office  
21 functions into separate units in order to  
22 ensure that if we --

23                   SENATOR LIU: Aren't we losing revenue  
24 by extending it another three years?

1           DTF ACTING COMMISSIONER HILLER: Well,  
2           right, but we didn't have -- we weren't  
3           taxing these particular transactions before  
4           Dodd-Frank.

5           SENATOR LIU: I understand that.

6           DTF ACTING COMMISSIONER HILLER: They  
7           were in-house transactions within the  
8           organizations, so they weren't being -- you  
9           know, we forced these taxpayers to spin out  
10          functions that now create taxable  
11          transactions within their business.

12          SENATOR LIU: Exactly.

13          DTF ACTING COMMISSIONER HILLER: And  
14          so there could -- there could -- I mean, I'm  
15          sure that there must be a fiscal because  
16          we're not taxing transactions that are  
17          taxable transactions. But we can't quantify  
18          those because we weren't taxing them before  
19          the change, because they weren't taxable  
20          transactions before the change.

21          SENATOR LIU: Right, I understand.

22          But, I mean, are we the only state that's  
23          exempting these kinds of transactions from  
24          sales tax? You know --



1 DTF ACTING COMMISSIONER HILLER: I  
2 have no idea, but I think we are --

3 (Overtalk.)

4 DTF ACTING COMMISSIONER HILLER: I  
5 think we are a state that has -- that is the  
6 situs of many of these financial  
7 institutions.

8 SENATOR LIU: Even if you're saying  
9 that, you know, you can't quantify the amount  
10 of lost revenue, you do agree that we're  
11 losing revenue by extending it yet another  
12 three years.

13 DTF ACTING COMMISSIONER HILLER:  
14 I would --

15 SENATOR LIU: Too many years.

16 DTF ACTING COMMISSIONER HILLER: I  
17 would assume that these are transactions that  
18 are taxable transactions but for this  
19 exemption. And so if we were taxing them,  
20 there would be revenue associated with them.

21 SENATOR LIU: Exactly.

22 DTF ACTING COMMISSIONER HILLER: But  
23 we don't know how to quantify those because  
24 we weren't taxing them before, so we don't

1 have a measure of them.

2 And the financial plan from --

3 (Overtalk.)

4 DTF ACTING COMMISSIONER HILLER: --

5 from when Dodd-Frank happened did not tax

6 them because they weren't taxable

7 transactions at that time.

8 SENATOR LIU: You're good. I'm out of

9 time.

10 (Laughter.)

11 SENATOR LIU: But I think we should

12 not continue to extend these exemptions for

13 these big Wall Street companies ad nauseam.

14 Thank you.

15 CHAIRWOMAN WEINSTEIN: So we've been

16 joined by Assemblywoman Simon.

17 And we go to the ranker on

18 Real Property, Assemblyman Miller.

19 ASSEMBLYWOMAN MILLER: Thank you,

20 Acting Commissioner Hiller, for your

21 testimony. It's always a pleasure.

22 DTF ACTING COMMISSIONER HILLER: Thank

23 you.

24 ASSEMBLYMAN MILLER: I've got one

1 question on the commercial security tax  
2 credit.

3 And I just want to thank the Governor  
4 for putting that in her budget. And I wish  
5 it was a little bit more, because this  
6 problem is truly out of -- out of proportion.  
7 And, you know, a \$3,000 tax credit's not  
8 going to go a long ways for a lot of small  
9 businesses, you know, with a hundred people  
10 in, you know, locations.

11 But, you know, just some clarity on  
12 some of the things that can be used for the  
13 tax credit. We've got one for use of  
14 security officers. So if they're already  
15 using security officers, they can use the tax  
16 credit for the '24-'25 tax year to help pay  
17 for those?

18 DTF ACTING COMMISSIONER HILLER: A  
19 taxpayer needs to have incurred \$12,000 in  
20 theft prevention expenses in order to qualify  
21 for the credit.

22 And so I think that that would include  
23 it, yes.

24 ASSEMBLYMAN MILLER: Okay. So if

1           they're already doing it and that's nothing  
2           added --

3                     DTF ACTING COMMISSIONER HILLER:  I  
4           don't think there's -- I don't think there's  
5           a requirement that they be new expenses.

6                     ASSEMBLYMAN MILLER:  Okay.

7                     Installation of security cameras,  
8           we're talking about if they upgrade them?  
9           That's eligible?

10                    DTF ACTING COMMISSIONER HILLER:  I  
11           think that that would also be eligible.

12                    ASSEMBLYMAN MILLER:  Okay.  And it's  
13           perimeter security lighting, alarm systems,  
14           access to control vaults -- these are all  
15           great things, and I'm sure there's more  
16           things out there.

17                    But there's one question I have here  
18           on other appropriate anti-theft devices as  
19           determined by the Division of Criminal  
20           Justice Services.

21                    DTF ACTING COMMISSIONER HILLER:  
22           Right.

23                    ASSEMBLYMAN MILLER:  So is that an  
24           evolving list, or we don't know what it is?

1 Or if somebody comes up with a unique way of  
2 crime prevention, that would be eligible?

3 DTF ACTING COMMISSIONER HILLER: I  
4 think that that's the reason why -- you know,  
5 I think that establishing a small, finite  
6 list of eligible expenses would limit  
7 businesses that may have specific security  
8 needs that we haven't thought of.

9 And so this is a certified credit with  
10 the Division of Criminal Justice Services,  
11 because they're well-positioned to take in  
12 applications and engage with businesses to  
13 see whether an expense really was a theft  
14 prevention expense that isn't on the list.

15 But we certainly don't want to  
16 foreclose the credit for expenses that we  
17 just haven't thought of yet or we forgot to  
18 put on the list in the law.

19 ASSEMBLYMAN MILLER: Okay. Okay, so  
20 the tax credit, that would be -- they could  
21 file during their income tax?

22 DTF ACTING COMMISSIONER HILLER: Yes.

23 ASSEMBLYMAN MILLER: Okay.

24 That's all -- that's all the questions

1 I have. Thank you.

2 DTF ACTING COMMISSIONER HILLER:

3 Great.

4 CHAIRWOMAN WEINSTEIN: Thank you.

5 Back to the Senate.

6 SENATOR GOUNARDES: Great, thank you.

7 Next we'll go to Senator Weber for

8 five minutes.

9 SENATOR WEBER: Thank you,

10 Commissioner, for being here today. And

11 appreciate, you know, the back-and-forth that

12 we'll have.

13 So just a few questions in general.

14 Obviously we've seen and we continue to see

15 the outmigration of residents from New York

16 State over the last number of years. It

17 seems to be continuing on that trend. I know

18 the Executive's budget doesn't have any

19 increase in individual corporate taxes, which

20 I'm pleased to see and I think that's great.

21 But, you know, I've seen some

22 proposals and discussions, crazy proposals

23 and discussions about, you know, the desire

24 by some in this Legislature to raise taxes on

1 individual earners, corporate earners,  
2 capital gains taxes, things of this sort.

3           You know, in 2021 I think there was --  
4 it was the last time we had an increase in  
5 the individual tax rates. And we continue to  
6 see the outmigration. So do you think that  
7 was a mistake? And do you see that -- would  
8 you see that any increase in -- whether  
9 individual, corporate, or any other taxes,  
10 would continue that outmigration?

11           DTF ACTING COMMISSIONER HILLER: You  
12 know, I think it's very hard to point to  
13 causes for outmigration. I think -- you  
14 know, I think we all at some time in our  
15 lives have moved, and I think there are lots  
16 of factors that go into that.

17           I will say -- you know, we have a  
18 bunch of data on our website, our tax facts  
19 data, and one of the things that we saw is  
20 that when we increased the tax brackets for  
21 the wealthiest New Yorkers in 2021, we did  
22 see an increase in the outmigration of  
23 taxpayers in those tax brackets that -- for  
24 that tax year.

1                   And it is returning to the sort of  
2                   more normal levels of outmigration after that  
3                   tax increase. So I read that to suggest a  
4                   possibility that those taxpayers who were  
5                   sensitive to that tax change, and that  
6                   taxpayers who weren't sensitive to that tax  
7                   change stayed. And are probably going to  
8                   continue to stay.

9                   SENATOR WEBER: And would you amend  
10                   that if you saw a massive increase in those  
11                   rates now or in the next couple of years, you  
12                   know, knowing that we're going to have budget  
13                   shortfalls over the next couple of years,  
14                   that you would see a continual outmigration  
15                   of wealthier taxpayers?

16                   DTF ACTING COMMISSIONER HILLER: I  
17                   certainly think that that's possible.

18                   But I have a different set of concerns  
19                   about increasing the taxes at the highest tax  
20                   brackets, and that's that I think our tax  
21                   system is already overreliant on a very small  
22                   number of taxpayers. The millionaires in  
23                   New York comprise less than 1 percent of our  
24                   taxpayers; they pay about half of the tax



1 revenue.

2 We just completed the processing of  
3 tax year 2022 returns, and we saw a  
4 \$7 billion decline in income tax revenue  
5 because the economic fortunes of that very  
6 small number of taxpayers declined that year.  
7 And a \$7 billion swing from one year to the  
8 next is because we're incredibly reliant on  
9 the taxes at the way top of our bracket.

10 We don't -- we have an incredibly  
11 progressive tax system, but we don't have  
12 smooth progressivity across the tax brackets.

13 And so if we -- if we increase our  
14 reliance on the highest-earning taxpayers in  
15 order to fund recurring spending commitments,  
16 then we risk a bad year. You know, if the  
17 end of the year is a bad year for capital  
18 gains and now we don't have enough money and  
19 we have a huge budget gap and we have to cut  
20 programs and services we care about.

21 SENATOR WEBER: Putting all of our  
22 eggs possibly in one basket, we'll continue  
23 to have uncertainty in terms of the expected  
24 revenue income coming in each year.

1 DTF ACTING COMMISSIONER HILLER:

2 Right. I mean, at the end of the day, I'm a  
3 tax administrator, I administer the policies  
4 that are set by the Legislature. And if the  
5 Legislature decides that they are going to  
6 increase tax brackets, then we will  
7 administer those tax brackets.

8 But I am also pragmatic. We have a  
9 visibility into where our tax dollars are  
10 coming from, and they are overwhelmingly  
11 coming from a very tiny sliver of New York  
12 taxpayers. And so our budgets are riding on  
13 that very small sliver.

14 And I don't know that increasing taxes  
15 again would increase outmigration or not, but  
16 that's certainly a risk to our financial plan  
17 if we continue to rely on and further our  
18 reliance on that very small handful of  
19 taxpayers who are paying the freight in  
20 New York.

21 SENATOR WEBER: Sure. And finally,  
22 one other quick question.

23 So I've been a CPA in New York since  
24 1994, so I've had a lot of experience with

1 not only IRS but New York State tax  
2 departments. Now, being in government, we  
3 get a lot of government calls to the office  
4 related to residents' frustrations trying to  
5 get through to agents within the department.

6 Is your department back to full  
7 in-person? Or is there still remote working?  
8 And has there been any improvements or any  
9 improvements to be made in the future related  
10 to, you know, customer service in terms of  
11 people being able to get through to a live  
12 agent?

13 DTF ACTING COMMISSIONER HILLER: So I  
14 think that there are a couple of things.

15 One, many of our call center employees  
16 are working remotely. They plug into a  
17 digital platform at the beginning of the day,  
18 and their day is entirely worked through that  
19 digital platform. So it makes very little  
20 difference whether they're sitting at a desk  
21 in the Tax Department or sitting --

22 (Time clock chiming.)

23 DTF ACTING COMMISSIONER HILLER: -- in  
24 their den at home.

1           I think many of the challenges  
2           reaching tax agents is related to our civil  
3           enforcement operations, where people are  
4           trying to resolve bills, primarily. And we  
5           are -- we have had staffing issues in that  
6           function.

7           We have recently transferred many of  
8           those calls to our call center, which is  
9           better equipped to handle very low-level  
10          calls, in order to free up staff in order to  
11          be able to devote more of their attention  
12          to --

13                   (Overtalk.)

14           DTF ACTING COMMISSIONER HILLER: --  
15          actually working those cases.

16           SENATOR GOUNARDES: Thank you.

17           CHAIRWOMAN WEINSTEIN: Thank you.

18           We go to our ranker, Assemblyman Ra.

19           ASSEMBLYMAN RA: Good morning,  
20          Acting Commissioner.

21           So I wanted to start with asking about  
22          the department and your approach and perhaps  
23          whether you'd be, you know, amenable to  
24          having more authority in this area.

1           There was an article -- I don't know  
2           if you saw it -- a couple of days ago in the  
3           New York Post regarding flavored vape  
4           products. I'm just wondering, A, when the  
5           department does go out on enforcement of  
6           products that you are able to do enforcement  
7           on, what is the approach if they were to see  
8           an item like this that is not legal but is  
9           not really within the purview of your  
10          department to enforce that?

11           DTF ACTING COMMISSIONER HILLER: I  
12          think we generally notify the Health  
13          Department when we see flavored vape.

14           You know, I certainly am aware that  
15          there is conversation about perhaps  
16          empowering the Tax Department or assigning to  
17          the Tax Department responsibility to enforce  
18          some of our restrictions on vapor products.

19           We -- you know, under the current law  
20          vapor tax does not have tax enforcement  
21          provisions attached to it. We can audit a  
22          registered vapor dealer's returns, but that's  
23          really the limit of our role with vapor  
24          enforcement.

1           But we do see vapor products --  
2           nicotine-based vapor products -- when we're  
3           doing tobacco inspections, and we do share  
4           that information with the Health Department.

5           We do also see cannabis vape in our  
6           cannabis enforcement, and we're seizing those  
7           products.

8           ASSEMBLYMAN RA: Do you have any  
9           opinion on whether it would make sense to  
10          give the department that authority so you  
11          could enforce all of them?

12          DTF ACTING COMMISSIONER HILLER: You  
13          know, I feel like we're busy now. But I  
14          also -- you know, I understand that there may  
15          be some synergies with the tobacco  
16          enforcement we're doing now.

17          I'm actually much more concerned about  
18          the handling of the vapor products that are  
19          being seized because those flavored vapor  
20          products are coming in from out of the  
21          country, in many cases, and we don't really  
22          know what's inside them. And so I'm not  
23          incredibly comfortable with the idea that a  
24          bunch of accountants are responsible for

1 maintaining for years at a time, you know,  
2 vapor cartridges that have unknown chemicals  
3 inside them.

4 ASSEMBLYMAN RA: Thank you.

5 I wanted to ask you about convenience  
6 rules. New Jersey, you may be aware, is  
7 encouraging residents to challenge their  
8 New York tax bills in a dispute over  
9 New York's rules that treat out-of-state  
10 remote workdays as New York workdays.

11 Is the department seeing an increase  
12 in challenges over remote work?

13 DTF ACTING COMMISSIONER HILLER:

14 Absolutely.

15 ASSEMBLYMAN RA: Do you have any  
16 statistics or --

17 DTF ACTING COMMISSIONER HILLER: You  
18 know, I don't think we have statistics.

19 The first -- the first case that's  
20 actually moving through litigation went to an  
21 administrative law judge at the Tax Appeals  
22 Tribunal in the first instance. That  
23 administrative law judge ruled for the state,  
24 and that's currently on exception to the

1 Tax Appeals Tribunal. I don't even think  
2 we've finished briefing it yet.

3 I expect that that issue will  
4 ultimately be resolved in our Court of  
5 Appeals or in the Supreme Court. It's --  
6 it's a significantly challenging issue.  
7 New Jersey is offering tax credits to its  
8 residents to challenge us. Connecticut has  
9 just proposed to do the same, and -- in order  
10 to encourage those challenges. And they're  
11 doing that because when a New Jersey resident  
12 is paying taxes to New York, New Jersey has  
13 to provide a credit to the New Jersey  
14 resident for the taxes that were paid to  
15 New York. And Connecticut, the same.

16 And so that means there is actually a  
17 financial burden on our neighboring states  
18 when we're collecting those taxes on that  
19 remote work.

20 ASSEMBLYMAN RA: Is the department --  
21 or should the Legislature be taking any steps  
22 to prepare for the possibility that our  
23 convenience rules could be deemed  
24 unconstitutional as this works its way



1 through?

2 DTF ACTING COMMISSIONER HILLER: You  
3 know, I mean, we've certainly had discussions  
4 within the Executive about that possibility,  
5 although I do think that a court decision is  
6 probably years away.

7 You know, we are also seeing changes  
8 in the nature of work. Our convenience rules  
9 have been in place since the fifties. Our  
10 most recent guidance on the convenience rule  
11 was issued before the iPhone. And so we  
12 have -- you know, it may be that we need to  
13 think hard as a state about where we want to  
14 be on this question.

15 But I think it speaks more broadly to  
16 how we interact with our neighbors who rely  
17 on the New York City economy for their -- you  
18 know, for their livelihoods.

19 ASSEMBLYMAN RA: Thank you.

20 And then just with the 20 seconds I  
21 have left, following up on the Senator's  
22 questions about outmigration, if you do have  
23 any data just in terms of the number of  
24 filers with incomes of more than a million

1 dollars per year, we have now as opposed to,  
2 you know, before 2021, before they changed,  
3 I'd be interested in seeing those, if you  
4 could provide them.

5 DTF ACTING COMMISSIONER HILLER: We  
6 have tax facts on our -- if you go to our  
7 website, there's a "Data" home and we have  
8 tax facts there that include a lot of  
9 information about our income-tax payers,  
10 about outmigration, about our corporate  
11 taxes, our sales taxes. There's a lot of  
12 data there.

13 ASSEMBLYMAN RA: Okay. Thank you.

14 CHAIRWOMAN WEINSTEIN: Senate?

15 SENATOR GOUNARDES: Great.

16 Next we're going to go to  
17 Senator Borrello, three minutes.

18 SENATOR BORRELLO: Thank you,  
19 Mr. Chairman.

20 Thank you for being here. Appreciate  
21 it.

22 You know, you brought up, I thought, a  
23 very honest evaluation of the loss in tax  
24 revenue that we have here, income tax revenue

1           in particular. Tom DiNapoli, our  
2           comptroller, sounded the alarm last year. He  
3           was projecting I think it was second quarter  
4           a 17 percent decline in revenue that turned  
5           into a 50 percent decline, if I'm not  
6           mistaken.

7                     And -- but you brought up an important  
8           point. We're going to hear from some folks  
9           later that are going to tell us that, you  
10          know, the rich need to pay their fair share,  
11          their fair share. I hear that a lot. One  
12          percent, the top 1 percent of earners, did  
13          you say, are paying 50 percent of the income  
14          tax? Is that correct?

15                    DTF ACTING COMMISSIONER HILLER: I  
16          think it's the top 2 percent of earners are  
17          paying about 50 percent of our taxes.

18                    SENATOR BORRELLO: So the problem  
19          isn't that the rich aren't paying their fair  
20          share, the problem is we're chasing the rich  
21          out of New York State, the wealthy people.  
22          That's what's lowering the income -- the  
23          revenue.

24                    DTF ACTING COMMISSIONER HILLER: I

1 think that that's -- it's probably not  
2 really -- I don't think it's really that  
3 simple. I think that our -- I mean, there's  
4 also information on our website about the  
5 composition of income of different income  
6 tranches of New York taxpayers.

7 Our wealthiest taxpayers primarily  
8 generate income from unearned income,  
9 including capital gains and other unearned  
10 income. And that means that their economic  
11 fortunes from one year to the next depend on  
12 economic circumstances that we don't get to  
13 control very well. And that I think creates  
14 risk for us.

15 I do think that we have seen  
16 outmigration of New Yorkers generally, of  
17 high-income New Yorkers included. I -- we  
18 pay attention to high-income New Yorkers  
19 because pragmatically they're paying the  
20 taxes, and we're a tax department, so we pay  
21 attention to where the tax dollars are going.  
22 But outmigration is true across all income  
23 tranches. Most New Yorkers are moving to  
24 Florida. In general, people are moving to

1 southern, less-regulated states, although  
2 they're certainly --

3 SENATOR BORRELLO: States with no  
4 income tax also.

5 DTF ACTING COMMISSIONER HILLER: Well,  
6 I think they are also states with income tax.  
7 We certainly also see outmigration to our  
8 immediate neighboring states.

9 But I think we also all anecdotally  
10 know people who started their careers in the  
11 city and then moved to New Jersey.

12 SENATOR BORRELLO: Yeah, that's true.

13 DTF ACTING COMMISSIONER HILLER: I  
14 think that there's a pattern there.

15 SENATOR BORRELLO: I'm short on time.  
16 I'm short on time, and I apologize to cut you  
17 off. But I want to talk about the  
18 projections that we've had recently.

19 You've seen projections in our budgets  
20 and you've obviously had to deal with the  
21 reality of the actual what comes in. Can you  
22 tell us, you know, over the last, say, four  
23 years what you've had to deal with as far as  
24 what we project in our budget versus actually

1           what we earned? What kind of losses are we  
2           talking about?

3                     DTF ACTING COMMISSIONER HILLER: Well,  
4           I actually think that in the last couple of  
5           years our projections have been conservative,  
6           and then upgraded as we moved through the  
7           midyear updates to the financial plan.

8                     I think that -- for example, we  
9           thought that last year would be a very, very  
10          difficult year, but at the end of the day the  
11          stock market rallied, and that makes it a  
12          better year for our tax receipts a little  
13          bit.

14                    And so one of the things I think,  
15          again, that is a real challenge as we try to  
16          project what our tax receipts are going to be  
17          is that in the income tax, absolutely, but  
18          also in our corporate taxes, even in our  
19          sales taxes, we are concentrated with a small  
20          number of taxpayers that are responsible for  
21          the bulk of the taxes.

22                    (Time clock chiming; overtalk.)

23                    DTF ACTING COMMISSIONER HILLER: And  
24          so small shifts in those taxpayers can have

1 big swings, and that's hard to predict and  
2 project for years out.

3 SENATOR GOUNARDES: Thank you.  
4 Assembly.

5 SENATOR BORRELLO: I agree. Thank  
6 you.

7 CHAIRWOMAN WEINSTEIN: We go to  
8 Assemblyman Mamdani.

9 ASSEMBLYMAN MAMDANI: Thank you,  
10 Commissioner.

11 So your own tax website shows  
12 6 percent of millionaires leaving in 2020 and  
13 the rates falling in 2021 and 2022. Doesn't  
14 this data show the migration rate of those  
15 impacted by the 2021 tax increase declined?

16 DTF ACTING COMMISSIONER HILLER: I  
17 think if you looked at the data on our  
18 website -- well, one, I think we saw -- one  
19 of the things that's challenging I think is  
20 we think about migration right during this  
21 particular set of years is that we had an  
22 overlay of a COVID pandemic that hit New York  
23 City first, and New York City is one of the  
24 densest communities in the country. And we

1           didn't even understand COVID in those early  
2           days, and I think we saw a ton of  
3           outmigration that was just related to COVID.

4                     And I think it -- it's intuitive to me  
5           that the people who had the most resources  
6           had the best ability to leave. And so I  
7           think some of the migration data that's right  
8           around the pandemic may be clouding what  
9           other factors might drive migration.

10                    I do think that we've seen a return of  
11           many of the people that left the city. And  
12           some of those people didn't leave the state,  
13           they left the city for upstate and then they  
14           moved back down to the city --

15                    ASSEMBLYMAN MAMDANI: I'm sorry to  
16           jump in, but just on the issue of time.

17                    I very much do agree with you in the  
18           analysis around the impact of COVID in this  
19           period --

20                    DTF ACTING COMMISSIONER HILLER: Sure.

21                    ASSEMBLYMAN MAMDANI: And what I would  
22           just bring up is that prior to COVID,  
23           working- and middle-class New Yorkers were  
24           leaving the state at a rate of four times as



1           much as the wealthiest New Yorkers. And now,  
2           once we are emerging out of this pandemic,  
3           we're seeing once again that working and  
4           middle-class New Yorkers are leaving at  
5           higher rates than the wealthy, whereas some  
6           of the analysis around this departure is  
7           attributing this to a tax increase when in  
8           fact it's a pandemic.

9                     DTF ACTING COMMISSIONER HILLER: Well,  
10           I think if you looked at some of the data  
11           that's -- from the most recent tax year  
12           that's posted on our website, you can see  
13           that there is increasing migration in the tax  
14           brackets that were most affected by the 2021  
15           tax increases. Those were post the height of  
16           COVID, and so I don't think you can attribute  
17           those migration rates to COVID itself.

18                    And -- but I also, I think, you know,  
19           they dropped back down afterwards. So I  
20           attribute that people who were sensitive  
21           left, and the people who weren't sensitive  
22           didn't leave. That's how I read it.

23                    But I think it's important to  
24           understand that New York has had net

1 outmigration for many, many years across all  
2 of our income tranches, including low-income  
3 New Yorkers, middle-income New Yorkers,  
4 wealthy New Yorkers. One of the things that  
5 I find --

6 ASSEMBLYMAN MAMDANI: I'm just going  
7 to jump in because I only have 30 seconds  
8 here --

9 DTF ACTING COMMISSIONER HILLER: Sure.

10 ASSEMBLYMAN MAMDANI: -- just to say  
11 that given that it is still remarkable that  
12 we have gained more than 17,500 additional  
13 millionaires over the last four years, given  
14 that existing statistic you were speaking of.

15 The last thing I would just say, with  
16 the 20 seconds that I have, is when we're  
17 looking at an analysis of where the top  
18 1 percent of earners are going if they are  
19 leaving New York, we're seeing Connecticut,  
20 New Jersey, California. This is the  
21 statistics that we have in front of us of  
22 28 percent, 27 percent, 22 percent -- and  
23 then 9 percent Florida.

24 DTF ACTING COMMISSIONER HILLER: I

1 think it -- it depends on how you measure  
2 those tranches. But I think, you know, if  
3 you define a tranche as being over \$200,000,  
4 then you see more movement to New Jersey.

5 And if you define a tranche as being  
6 over a million dollars, you see more movement  
7 to Florida.

8 And so one of the things that I've  
9 come to understand about the debate about  
10 taxes and migration is that there is data to  
11 support every viewpoint out there.

12 (Laughter; overtalk.)

13 DTF ACTING COMMISSIONER HILLER: And I  
14 think that that's an important context.

15 CHAIRWOMAN WEINSTEIN: And with that,  
16 we can go to the Senate now. Thank you.

17 SENATOR GOUNARDES: Thank you.

18 Next we're going to have  
19 Senator Hoylman for three minutes.

20 SENATOR HOYLMAN-SIGAL: Thank you,  
21 Mr. Chair.

22 Good to see you.

23 Regarding outmigration, which  
24 obviously is a question that is on a few

1 minds here, do you interview or speak to  
2 individuals who do choose to leave the state?  
3 Is there any type of analysis other than just  
4 looking at their departure that you deploy to  
5 understand what the impact of taxes is? As  
6 you mention, there are so many other factors,  
7 including age and weather, that results in  
8 the constant outmigration to Florida that  
9 we've seen for decades among New Yorkers.

10 DTF ACTING COMMISSIONER HILLER: I  
11 mean, we don't -- we don't systematically  
12 survey taxpayers who have left. But we also  
13 -- we also -- many of the taxpayers who have  
14 left --

15 SENATOR HOYLMAN-SIGAL: I might  
16 suggest you do that.

17 DTF ACTING COMMISSIONER HILLER:  
18 Right, but we also -- many of the taxpayers  
19 who have left, we are engaging with in  
20 ongoing audits with those taxpayers. And so  
21 they tell us, as we are engaging with them  
22 and their tax practitioners --

23 SENATOR HOYLMAN-SIGAL: Good.

24 DTF ACTING COMMISSIONER HILLER: --



1 Institute has shown that millionaire earners  
2 pay 44 percent of the state's income tax  
3 revenue and earn 35 percent of all personal  
4 income earned in New York. That would seem  
5 somewhat proportionate, correct?

6 DTF ACTING COMMISSIONER HILLER: I'm  
7 not -- I'm not -- so I don't -- I don't have  
8 an opinion about whether they're paying their  
9 fair share or not their fair share. That's a  
10 policy decision that the Tax Department  
11 doesn't get to make.

12 But I do know that we are heavily  
13 reliant on that upper tranche. And again, we  
14 have updated data through tax year '22 that  
15 just came -- we just were able to put that  
16 out last week, maybe. You know, because we  
17 finished the -- we got 2022 returns in  
18 October, so as we finish processing them, we  
19 can roll out '22. But that data is always  
20 retrospective.

21 I would also note that we have budget  
22 surpluses because we've budgeted  
23 conservatively against lower revenue  
24 expectations. And then when the revenue

1 expectations turned out to be rosier --  
2 although not rosy. They are rosier than we  
3 originally projected. And I think that  
4 that's part of what's tricky about trying to  
5 project our tax receipts are reliant on the  
6 economic fortunes of a handful of people.

7 CHAIRWOMAN WEINSTEIN: Assemblyman  
8 Dilan.

9 ASSEMBLYMAN DILAN: Thank you,  
10 Madam Chair.

11 I just had a brief follow-up on a  
12 question that Chair Williams posed, and it's  
13 about the creation of the new tax abatement  
14 for rental construction housing.

15 DTF ACTING COMMISSIONER HILLER: Sure.

16 ASSEMBLYMAN DILAN: This is my  
17 opinion. I believe this is exactly where tax  
18 policy should be focused, on rentals, because  
19 that's where the demand is.

20 But I wanted to dig deep down more  
21 about the abatement itself. Like how deep is  
22 the abatement? For how long does it last?  
23 Are there targeted levels of affordability in  
24 the housing that we are asking folks to

1 create? Could you tell us more mechanically  
2 about how this abatement would work?

3 DTF ACTING COMMISSIONER HILLER: I  
4 actually can't. I wish I could. But I --  
5 this is a housing policy initiative that  
6 was --

7 ASSEMBLYMAN DILAN: But it's also tax  
8 policy that you would have to administer  
9 and --

10 DTF ACTING COMMISSIONER HILLER: We --  
11 we -- the Tax Department actually would not  
12 have a role in administering this tax policy.  
13 It would be a real property tax abatement  
14 administered by New York City.

15 And traditionally the real property  
16 tax abatements related to housing are  
17 negotiated at the housing table. So I  
18 suspect that Commissioner Visnauskas will be  
19 better positioned to answer questions about  
20 these particular proposals.

21 ASSEMBLYMAN DILAN: Thank you.

22 Thank you, Madam Chair.

23 CHAIRWOMAN WEINSTEIN: Senate.

24 SENATOR GOUNARDES: Next we'll hear



1 from Senator Murray, three minutes.

2 SENATOR MURRAY: Thank you, Chairman.

3 Commissioner, I'm going to change  
4 scenes here and move to the film tax credit.

5 So your department actually recently  
6 released a study that was commissioned to the  
7 PFM Group -- I think it was like 359 pages --  
8 looking at the major tax incentives that have  
9 been given out to different programs. It  
10 looked like the Excelsior job program did  
11 pretty good, but the film tax credit looks  
12 like an abysmal failure here.

13 It says that the investment returns  
14 31 cents on the dollar. Now, with such a low  
15 return on investment, wouldn't it be wise  
16 maybe to stop this program, get that revenue  
17 in and maybe recoup some of that money for,  
18 say, schools, where we've cut -- the  
19 Governor's proposing cutting funding to  
20 schools? Or maybe things -- programs like  
21 the Healthy Meals for All, that would cost us  
22 about 90 million.

23 The Legislature last year increased  
24 this tax credit, a tax credit that obviously

1 is failing, from 520 million to \$700 million.  
2 Why would we continue with a program that's  
3 returning 31 cents on the dollar?

4 DTF ACTING COMMISSIONER HILLER: I  
5 think that that's a question for the  
6 Legislature. I certainly don't think that  
7 the Tax Department can answer that question.

8 I will say a couple of things about  
9 that study. The Tax Department was assigned  
10 the responsibility for commissioning and  
11 overseeing the development of that study, and  
12 I'm proud to say that we were actually  
13 independent. It is an independent study. We  
14 did not reach in in any way into the analysis  
15 that was done.

16 I think the limits of our involvement  
17 was working to make the final report  
18 accessible for people with visual impairments  
19 on the web.

20 The -- a couple of notes, though.  
21 One, I think the consultants, by their own  
22 admission, took a very conservative approach  
23 to measuring return on investment and were  
24 only looking at the dollar-for-dollar state

1 return on -- in state dollar terms, even  
2 though the report does develop projections  
3 for county and local taxes that are also the  
4 result of those incentives.

5 And that it's worth taking a look at  
6 the all-in numbers to get I think a broader  
7 picture of the return on investment --

8 SENATOR MURRAY: I'm going to  
9 interrupt you there only because of time.  
10 But there was another study previously that  
11 others are pointing to saying that, oh, it's  
12 a wonderful program. But that study -- and  
13 sort of like your comment earlier that, you  
14 know, we adjusted statistics to make whatever  
15 argument fits.

16 But this study seems to be much more  
17 in depth. The study previously was like a  
18 16-page study that said basically if there  
19 was no film tax credit, no jobs would have  
20 been created. Which is absurd. This one  
21 takes a more I think realistic approach to  
22 this. But again, it shows that the  
23 investment is just -- the return on  
24 investment is just not there.

1                   Would you agree with that analysis  
2 based on the information in this report?

3                   DTF ACTING COMMISSIONER HILLER: I  
4 think that the report's commentary on the  
5 film credit, as with most of the credits it  
6 looked at, was that in addition to the direct  
7 dollar-for-dollar return on investment, there  
8 are also quantitative benefits for each of  
9 those incentives.

10                   Ultimately whether or not those  
11 incentives are the right incentives for  
12 New York are decisions that the Tax  
13 Department will administer, but we don't  
14 decide.

15                   SENATOR GOUNARDES: Thank you,  
16 Commissioner.

17                   Assembly?

18                   CHAIRWOMAN WEINSTEIN: Assemblyman  
19 Braunstein.

20                   ASSEMBLYMAN BRAUNSTEIN: Thank you,  
21 Commissioner.

22                   First, my colleague Mr. Ra went over  
23 my concerns about the shift to working from  
24 home. And I appreciate that you recognize

1           that that's a challenge that we need to  
2           confront as the legal process plays out.

3                     My other question is obviously we're  
4           all concerned about outmigration of the tax  
5           base. In your opinion, has the cap on the  
6           state and local tax deduction had any impact  
7           on migration?

8                     DTF ACTING COMMISSIONER HILLER: You  
9           know, we started looking at migration  
10          patterns when that cap was put in place. And  
11          I think that we do see some changes in  
12          outmigration behavior that followed the  
13          institution of that cap.

14                    I think -- as with our specific tax  
15          rates and tax brackets -- it's very difficult  
16          to tease out whether the state and local  
17          deduction has an impact.

18                    I think it's also especially difficult  
19          now, because I think the taxpayers who were  
20          most impacted by the cap on state and local  
21          tax deductions now have the opportunity to --  
22          many of them have the opportunity to leverage  
23          the PTET program to help reduce their state  
24          tax liabilities. And so I think that changes

1 the picture for them.

2 ASSEMBLYMAN BRAUNSTEIN: Okay, thank  
3 you.

4 SENATOR GOUNARDES: Next we'll hear  
5 from Senator O'Mara, for five minutes.

6 SENATOR O'MARA: Good morning,  
7 Commissioner.

8 I've got a couple of questions on the  
9 change to the cannabis tax. Well, first of  
10 all, where are the cannabis tax receipts  
11 compared to what was projected?

12 DTF ACTING COMMISSIONER HILLER: You  
13 know, I don't have the specific numbers  
14 offhand. But they are obviously much lower  
15 than originally projected, because we just  
16 haven't seen the rollout that we originally  
17 anticipated.

18 You know, I think that, you know, the  
19 state has prevailed in some of the more  
20 recent legal challenges and that we're in a  
21 position to start rolling out licenses  
22 faster. And I remain of the belief that the  
23 best way to combat the illegal market is to  
24 have a robust legal market. So I'm excited

1           that we seem to be gaining momentum on the  
2           legal stores.

3                     SENATOR O'MARA: Very slowly gaining  
4           momentum, in my opinion. And really getting  
5           no traction on, frankly, eliminating the  
6           illegal sticker shops that are out there, at  
7           least in communities that I represent.

8                     It's very embarrassing, from where I  
9           sit as a state legislator, when I'm in my  
10          district and people want to know what's going  
11          on. I mean, it's just -- it's embarrassing,  
12          the whole program.

13                    To change to -- to get away from the  
14          THC level taxing, what's that impact going to  
15          be to tax receipts from cannabis overall?

16                    DTF ACTING COMMISSIONER HILLER: From  
17          my -- you know, so one, I think that the  
18          movement from the THC tax to a price-based  
19          tax will be an incredibly important  
20          simplification of the tax. Because  
21          especially for cannabis growers who are  
22          selling flower, cannabis flower. Every batch  
23          has to be tested, and the testing is really  
24          expensive, hard to get, and unreliable. And

1 so that makes the taxing really  
2 unpredictable.

3 SENATOR O'MARA: Don't they -- they  
4 have to label the THC content on it, like  
5 liquor has a proof on it. So it still has to  
6 be appropriately labeled.

7 DTF ACTING COMMISSIONER HILLER:  
8 Absolutely.

9 SENATOR O'MARA: So why isn't it taxed  
10 on -- just simply taxed on what it's labeled  
11 as? And if there's periodic testing and it  
12 proves to be different, then you change the  
13 label and the tax level changes.

14 DTF ACTING COMMISSIONER HILLER: I  
15 think that that's -- you know, I think I made  
16 that argument at a hearing on cannabis in  
17 November.

18 But I also recognize that the testing  
19 is very difficult to get, and it's incredibly  
20 expensive. And then we know that it's not  
21 very reliable. So that combination I think  
22 is not a great way to administer taxes.

23 And we have the opportunity to -- you  
24 know, that was the original idea when we



1 first legalized adult use cannabis in  
2 New York. And we've had a few years of  
3 experience and have the opportunity to move  
4 to a different tax structure. I think that  
5 now's the time to make that move, as the  
6 legal industry is getting going.

7 And, you know, I think that in terms  
8 of the revenue for --

9 SENATOR O'MARA: I think changing  
10 before we really have the market established  
11 doesn't make sense. I mean, there was a  
12 reason it was put in in the first place.

13 But I want to move on from the  
14 cannabis, in the remaining time I have, to  
15 taxes on manufacturers. And I forget how  
16 many years ago it was -- six, eight years  
17 ago -- we eliminated the franchise taxes on  
18 C-corporation manufacturers. And there's  
19 proposals out there that I have and others  
20 have to eliminate that on the pass-through  
21 entities, whether it's a partnership, an LLC,  
22 a subchapter S corporation.

23 Have you looked, from your perspective  
24 as commissioner of the Tax Department, at

1           what impact that would be? And how could  
2           that feasibly be done to give a further break  
3           to smaller manufacturers in the state?  
4           Because my understanding is they make up like  
5           75 percent of the manufacturing entities in  
6           the state. And we certainly I think want to  
7           foster manufacturing in New York State.

8                     DTF ACTING COMMISSIONER HILLER: Well,  
9           certainly I think we see the -- you know,  
10          changes in the patterns of business formation  
11          over -- you know, historically, you know,  
12          from C-corporations as new businesses are  
13          increasingly structured as flow-through  
14          entities.

15                    I'm aware that there are proposals to  
16          try to bring the same kind of tax relief to  
17          flow-through manufacturers as we have for  
18          C-corp manufacturers. At the Tax Department  
19          that makes us nervous, and that's because  
20          it's hard to tell what's a manufacturer.

21                    And it's hard for us, from where we  
22          sit on a tax filing, to determine whether  
23          that entity was a manufacturer or not. We  
24          have a little bit more -- the group of C-corp

1 manufacturers is at this point fairly well  
2 understood. But the flow-through  
3 manufacturers is a much more unwieldy pool.

4 And so if we're going to move in that  
5 direction, I would encourage the Legislature  
6 to consider working with SED to have  
7 certified manufacturers. And if we have  
8 certified manufacturers, we have people with  
9 expertise and able to determine whether this  
10 entity is a manufacturer that should get a  
11 tax break.

12 SENATOR O'MARA: Yeah, I think that  
13 could definitely be done. So -- but thank  
14 you. I think we should prioritize our  
15 manufacturers, the base of our economy.

16 Thank you.

17 SENATOR GOUNARDES: Thank you,  
18 Commissioner.

19 Assembly?

20 CHAIRWOMAN WEINSTEIN: Hello. So I  
21 have just a couple of short questions.

22 The -- it was brought up I think by  
23 Assemblyman Miller, the commercial security  
24 tax credit. And a number of my colleagues

1 are concerned that both the \$12,000 spending  
2 before the credit kicks in, and the hundred  
3 or less employees, will really prevent a lot  
4 of the small individual businesses from being  
5 able to take advantage of this credit.

6 And I was just wondering if you had  
7 thoughts on why the \$12,000 limit -- or  
8 kick-in, really, was chosen, and why up to  
9 100 employees. And your thoughts on whether  
10 perhaps to have a two-tier system for smaller  
11 individual businesses that maybe have only  
12 five, seven or 10 employees and they'll never  
13 get to that \$12,000 limit, and some of those  
14 sort of mom-and-pop stores that are having a  
15 lot of issues won't be able to take advantage  
16 of this credit.

17 DTF ACTING COMMISSIONER HILLER: My  
18 understanding is that the 100-employee cap  
19 was established because that's how we define  
20 small businesses. In economic development  
21 terms, I think ESD and others look at that as  
22 being a threshold for being small businesses.

23 And I think it's also, for many of  
24 particularly our small retail businesses,

1           their payrolls -- you know, I may go into the  
2           store and only see three people, but most of  
3           those employees are part-time employees and  
4           there's a rotation of part-time employees,  
5           and the actual employee count is higher.

6                     In terms of the spending cap, you  
7           know, I think that this is -- the intention  
8           here I think was to provide cost-sharing to  
9           help incentivize the investment in these  
10          kinds of security initiatives to help prevent  
11          retail theft without absorbing all of the  
12          cost of those initiatives. And I think that  
13          the -- essentially a 25 percent cost-sharing  
14          is what was the original proposal.

15                    I expect this will get negotiated at  
16          the table, and there may be some variation in  
17          that, in the ultimate credit.

18                    But I think this is one part of a  
19          larger series of initiatives that the  
20          Governor has proposed to try to address the  
21          retail theft that we're seeing. And, you  
22          know, it's an important piece but it's only  
23          one piece of a larger series of proposals  
24          that the state is undertaking in order to try

1 to address this growing scourge.

2 CHAIRWOMAN WEINSTEIN: And -- thank  
3 you for that answer.

4 You know, we've heard people talk  
5 about how New York State is gaining  
6 millionaires. I assume that it's not a  
7 number of millionaires moving into New York  
8 State, but people who have been taxpayers who  
9 have been below that amount and, as the  
10 economy has improved for some people, that  
11 they are now over the million-dollar income  
12 threshold, where before they were taxpayers  
13 below a million dollars.

14 Is that a correct assumption?

15 DTF ACTING COMMISSIONER HILLER:  
16 That's actually right on target. We do not  
17 see in migration, meaningful in-migration of  
18 millionaires into New York.

19 What we -- you know, we have -- we're  
20 talking first -- you know, when we're talking  
21 about millionaires, we're talking about  
22 income millionaires, not wealth millionaires.  
23 We have people who have homes that are worth  
24 a million dollars, but they don't have income

1 of a million dollars a year.

2 And a large number of them, they're  
3 just above a million this year, they're just  
4 below a million next year. It's a great  
5 capital gains year, it was a good bonus year,  
6 they're above a million. The next year their  
7 bonus is down and they're below a million.  
8 And so we see that fluctuation.

9 We also see a pattern that has been a  
10 longstanding pattern in New York of people  
11 who make their fortune in New York and then  
12 retire to Florida. And that's not new.  
13 People who started out in a business and by  
14 the time they retired, that business was  
15 generating a million dollars a year, and then  
16 they leave. I think that we see all of those  
17 kinds of patterns.

18 The one thing I think that's  
19 incredibly important to keep in mind, though,  
20 as we think about migration and outmigration  
21 is that when you look at the in-migration,  
22 the outmigration from New York and the  
23 outmigration from Florida, they aren't  
24 actually all that different. The difference

1 is that people are moving to Florida and  
2 people are not moving to Florida.  
3 Millionaires aren't moving to New York;  
4 lower-income people aren't moving to  
5 New York.

6 That doesn't surprise me. The vacancy  
7 rate in New York City is at historic lows.  
8 You can't get an apartment in New York. But  
9 we aren't seeing the in-migration that  
10 balances the outmigration we see every year.

11 In other states, that in-migration and  
12 outmigration is more balanced or, in the case  
13 of Florida, the in-migration vastly  
14 overwhelms the outmigration from Florida.  
15 But the numbers aren't all that different.  
16 The number leaving Florida, the number  
17 leaving New York, it's within -- you know,  
18 some years we're above, some years we're  
19 below.

20 It's not -- that's not where the  
21 problem is. The problem is that we aren't  
22 bringing people in to replace the people who  
23 are leaving.

24 CHAIRWOMAN WEINSTEIN: Thank you.



1                   And just to follow up on  
2                   Senator O'Mara's questions about the  
3                   inspections of the illegal cannabis, do you  
4                   have enough staff to do those inspections?  
5                   And are -- I guess just that question.

6                   DTF ACTING COMMISSIONER HILLER: I  
7                   think if we had more peace officers, we would  
8                   be able to do more inspections. And we are  
9                   working to grow our peace officer class. I  
10                  was just at a peace officer graduation two  
11                  weeks ago.

12                 And, you know, we're bringing on  
13                 another new class of peace officers. But it  
14                 takes time to recruit and train new peace  
15                 officers. And so we're moving through that  
16                 process expeditiously in order to sort of  
17                 grow the ranks, because we not only are doing  
18                 cannabis enforcement, we're still also doing  
19                 tobacco enforcement.

20                 And tobacco -- we have the highest  
21                 tobacco taxes in the country, and so the  
22                 incentive to bring in untaxed tobacco is  
23                 enormous. And so we can't stop doing tobacco  
24                 enforcement while we undertake cannabis

1 enforcement. And so we are working to grow  
2 our ranks.

3 I was incredibly excited by the  
4 graduation of that new class. We have a  
5 great new team of people coming on board.  
6 And we're going to be continuing to recruit  
7 new peace officers to do that work.

8 CHAIRWOMAN WEINSTEIN: Thank you.  
9 Thank you for your responses.

10 To the Senate.

11 SENATOR GOUNARDES: Okay, we're done  
12 on our side, so I'll take some time for some  
13 questions.

14 Commissioner, I want to follow up on  
15 what I guess has been the theme of today so  
16 far on this question of migration,  
17 in-migration, outmigration, tax code,  
18 et cetera.

19 You know, I guess the first thing I'll  
20 ask or I'll start with is, you know, there  
21 does seem to be, based on the data on the  
22 department's website, as well as, you know,  
23 on the press reported analysis of that data,  
24 a net increase in about 15,000 millionaire

1 filers in the same period that we lost about  
2 2500 millionaire filers for whatever  
3 reason -- they retire, they move, COVID,  
4 et cetera. So we have seen an increase in  
5 those -- in the number of people who are  
6 supporting that tax base. I think that's an  
7 important fact to just keep in mind.

8           Whether someone is coming in here or  
9 is already here and they're paying, arguably,  
10 their fair share or part of their fair share  
11 I think is ultimately the most important  
12 question for our financial plan. Right?  
13 Whether you are a former Wisconsin resident  
14 who's paying the tax in New York or you're a  
15 New Yorker who's done very well and now  
16 you're paying that tax, it's still a part of  
17 our broader plan.

18           And so arguably, at the end of the  
19 day, whether you're coming from somewhere  
20 else or you're here and you're doing well, we  
21 still want you to be paying your fair share.

22           And, you know, you had kind of alluded  
23 to, you know, the 1 percent pay 50 percent  
24 and that the highest earners are already

1           doing significantly -- or paying a  
2           significantly higher share of their taxes,  
3           and that when they don't do well, we all do  
4           less well.

5                     But the opposite's also true, that  
6           when they do very well, we all do very well.  
7           Correct?

8                     And, you know, nine months ago we were  
9           looking at a \$9 billion deficit. Then in  
10          October it was 4 billion. Now we have a  
11          balanced budget. The Budget Department says  
12          it's because of the stock market, which grew  
13          24 percent last year.

14                    So when the well-to-do are doing well,  
15          it benefits everyone. So isn't that an  
16          argument for, you know, we should not make  
17          changes to lessen the burden that is being  
18          asked of the most privileged and wealthiest  
19          New Yorkers?

20                    DTF ACTING COMMISSIONER HILLER: Well,  
21          first, I'm not aware of any proposals to  
22          lessen the burden on the people who are doing  
23          well (laughing).

24                    SENATOR GOUNARDES: (Inaudible.)

1                   DTF ACTING COMMISSIONER HILLER: You  
2 know, the conversation I have heard is about  
3 proposals to increase that burden.

4                   You know, I'm a New Yorker, I want  
5 people to all pay their fair share. I  
6 believe in progressive taxes. New York is a  
7 high-tax, high-spend state, and I'm proud of  
8 that. You know, there are states in other  
9 parts of the country that do not provide  
10 services to their residents, and I'm pleased  
11 that we step up to provide services to people  
12 who need assistance.

13                   That I don't think is the question. I  
14 think for me, separate from whether or not  
15 people are paying their fair share -- however  
16 one defines fairness -- I think the real  
17 question is built into your question. And  
18 that's whether our financial plan is stable  
19 from one year to the next when we're funding  
20 recurring expenditures.

21                   And so if --

22                   SENATOR GOUNARDES: On that point,  
23 Commissioner, so I understand that we want to  
24 have as smooth a kind of financial plan as

1 possible. Even with the increases over the  
2 last couple of years that we've seen in  
3 spending, education spending, childcare  
4 spending, healthcare spending, et cetera, you  
5 know, at the same time we've managed to sock  
6 away \$20 billion which we didn't have two or  
7 three years ago.

8 So we've been able to pay for the  
9 things we need to pay for -- arguably maybe  
10 not pay for enough of the things we pay  
11 for -- while still putting away a significant  
12 number of reserves based on the current  
13 structure of the tax system and tax code.

14 So I guess I'm wondering, you know,  
15 why would we or why should we not continue  
16 down that road and continue to structure our  
17 taxes in that way, and perhaps arguably try  
18 to raise a little bit more to pay for those  
19 things that are remaining unmet needs that  
20 we're facing right now?

21 DTF ACTING COMMISSIONER HILLER: Well,  
22 I think there are a couple of different  
23 things there. One, I think that we were all  
24 surprised by the strength of the stock market

1 in the pandemic. I think that economists  
2 widely attribute that to the infusion of  
3 federal funds into the economy to support the  
4 economy. And that left us with surprisingly  
5 strong revenues during some of our darkest  
6 times.

7 And I'm glad to see that we were able  
8 to put a lot of those resources into  
9 reserves, because it could -- that could have  
10 been a very different story and I think a lot  
11 of us feared it would be a very different  
12 story. And so having reserves in place to  
13 help us steel ourselves against another  
14 disaster like that and another crisis like  
15 that I think is incredibly important.

16 But again, I think the issue is when  
17 we have access to resources, there are ways  
18 to do one-time spending to spend those  
19 additional resources. I mean, we've done  
20 supplemental earned income tax credits,  
21 supplemental dependent care credits,  
22 additional homeowner rebate credits that are  
23 not recurring expenses but can help us do  
24 revenue-sharing to our lower-income residents

1           that are distributing some of that  
2           unanticipated fund balance that we have.

3           There are ways that we can do that  
4           that don't create recurring expenditures when  
5           we're fortunate enough to have that. But  
6           when we build our school aid formula on  
7           revenues that are uncertain, then we have  
8           problems in the next year in how we go about  
9           funding that in the future. And I think that  
10          that's true across our spending categories.

11          SENATOR GOUNARDES: So I appreciate  
12          that. I understand. I would say that that's  
13          one of the reasons why we have the reserves,  
14          to kind of allow us to smooth out, right?  
15          Which is why it's there.

16          DTF ACTING COMMISSIONER HILLER: Sure.

17          SENATOR GOUNARDES: I want to just get  
18          clarity. When we say that the top 1 percent  
19          pays 50 percent, is that 50 percent of the  
20          income taxes or is that 50 percent of the  
21          entire tax levy on individuals?

22          DTF ACTING COMMISSIONER HILLER: So,  
23          one, I would want to be clear. I think we  
24          say about 2 percent of the taxpayers, the top



1 200,000 taxpayers.

2 SENATOR GOUNARDES: Earlier I think  
3 you said 1 percent, but --

4 DTF ACTING COMMISSIONER HILLER: Well,  
5 I think New York millionaires are less than  
6 1 percent.

7 But that top 200 -- we have about  
8 84,000 millionaires in New York. But if you  
9 move to the top 2 percent, which is those  
10 84,000 millionaires plus people who are just  
11 below a million, you get to that --  
12 essentially that 2 percent number, and they  
13 pay about half.

14 It just shift a little bit from when  
15 you --

16 SENATOR GOUNARDES: Half of the  
17 personal income --

18 DTF ACTING COMMISSIONER HILLER: Half  
19 of the personal income tax.

20 SENATOR GOUNARDES: Okay.

21 DTF ACTING COMMISSIONER HILLER: But  
22 we also can see that the largest corporate  
23 taxpayers pay a disproportionate amount of  
24 corporate taxes. We see that a small handful

1 of sales tax vendors are responsible for most  
2 sales tax revenue. We do have concentration  
3 in our key taxes.

4 SENATOR GOUNARDES: And on the --  
5 looking, for example, at the capital gains  
6 tax, which arguably is what gave us a big  
7 boost because we tax capital gains as income  
8 here, what kind of carried us from the red to  
9 the black, what percentage of the capital  
10 gains tax is paid by the people in the top  
11 2 percent, are the millionaire class and  
12 above?

13 DTF ACTING COMMISSIONER HILLER: Oh, I  
14 think it's overwhelmingly.

15 I mean, I don't know that number  
16 offhand. We'd have to do some serious  
17 analysis within our tax returns in order to  
18 try to pull that out. But --

19 SENATOR GOUNARDES: Isn't --

20 DTF ACTING COMMISSIONER HILLER: But  
21 we do see that different -- we've looked at  
22 different wealth sources for income sources  
23 by income tranche, and you can see that it's  
24 overwhelmingly unearned income amongst our

1 wealthiest taxpayers.

2 SENATOR GOUNARDES: All right, thank  
3 you. I want to shift to another topic here.

4 In the Governor's proposal, Part A,  
5 she proposes to extend the limitation on  
6 charitable deductions at 25 percent of the  
7 federal limit. Otherwise, it would shoot up  
8 to 50 percent. And I guess my first question  
9 is, do we know, do we have an analysis, has  
10 your department done an analysis what the  
11 revenue gain to the state would be if we  
12 eliminated that deduction entirely?

13 Because I think they're projecting  
14 175 million increased revenue next year and  
15 beyond by continuing that --

16 DTF ACTING COMMISSIONER HILLER: I  
17 think it may be 350 million full year. I  
18 mean, it's a substantial -- I mean the  
19 reduction in this deduction has a substantial  
20 impact on our revenue stream.

21 I don't know offhand what it would be  
22 if we eliminated the charitable deduction  
23 completely for these sectors.

24 SENATOR GOUNARDES: I think the

1           proposal is just for people with incomes over  
2           \$10 million.

3                        So we're talking about, as I -- as I  
4           read the proposal, right -- so people making  
5           10 million or above get to deduct 25 percent  
6           of their charitable contributions on their  
7           state tax return.

8                        DTF ACTING COMMISSIONER HILLER: We --  
9           right. We have a permanent limitation of  
10          50 percent. And then we're extending the  
11          highest-dollar taxpayers -- the reduction to  
12          25 percent for our highest-dollar taxpayers.

13                       I don't know what it would look like  
14          if we completely eliminated the charitable  
15          deduction for those taxpayers. I think we  
16          could certainly do that -- work that up and  
17          get that to you. I don't know that offhand.

18                       I do also know that, you know,  
19          charitable contributions in New York are  
20          important to sustain some of our service  
21          providers in New York. And so I think  
22          that -- you know, I don't know where the  
23          balance is, where the value of the federal  
24          deduction, which may be limited by the

1 alternative minimum tax at the federal level  
2 for some of our -- these donors, what the  
3 tradeoff is for that.

4 SENATOR GOUNARDES: Sure.

5 DTF ACTING COMMISSIONER HILLER: I  
6 would hope that they're philanthropic  
7 regardless of the tax status of their  
8 donations, but I don't know that.

9 SENATOR GOUNARDES: I guess the  
10 question is, what is the public policy  
11 rationale for subsidizing charitable  
12 donations of multimillionaires?

13 We want people to be able to donate to  
14 their local YMCA and to their local Boy  
15 Scouts and Girl Scouts and to the food bank,  
16 and we want folks to be able to do that. But  
17 if you are a multimillionaire, I guess I  
18 question what the public policy rationale is  
19 of subsidizing your largesse to the libraries  
20 and the parks, which arguably wouldn't need  
21 those donations if we had fully funded them  
22 through tax revenue in the first place.

23 So I don't know if you can speak to  
24 the public policy rationale of -- I'm glad

1 we're trying to maintain what we currently  
2 have, but why not do something different?

3 DTF ACTING COMMISSIONER HILLER: You  
4 know, I can't speak to the public policy  
5 rationale because it's set by you, not by me.

6 SENATOR GOUNARDES: Or the Governor's  
7 proposal, in this case.

8 DTF ACTING COMMISSIONER HILLER:  
9 Right. Well, the Governor's proposal in this  
10 case is to extend, you know, sort of what's  
11 now become a longstanding limitation.

12 I would also -- you know, I think we  
13 could ask the question of whether we as a  
14 matter of public policy want to have  
15 deductions for charitable contributions at  
16 all for any level. But I think our  
17 wealthiest taxpayers also make the largest  
18 donations, and that that's part of a -- of a  
19 web of nonprofits that play an important role  
20 in our economy and in our communities.

21 SENATOR GOUNARDES: Great. Thank you.

22 I think we have --

23 CHAIRWOMAN WEINSTEIN: We have one  
24 more questioner on the Assembly side.

1 Assemblywoman Simon.

2 ASSEMBLYWOMAN SIMON: Thank you.

3 DTF ACTING COMMISSIONER HILLER: Good  
4 morning.

5 ASSEMBLYWOMAN SIMON: Thank you for  
6 your testimony.

7 DTF ACTING COMMISSIONER HILLER: Of  
8 course.

9 ASSEMBLYWOMAN SIMON: Actually I  
10 understood most of it, which is good.  
11 Because the last time I understood anything  
12 on tax, it was my tax class.

13 DTF ACTING COMMISSIONER HILLER:  
14 You're not alone.

15 ASSEMBLYWOMAN SIMON: And as soon as  
16 the final was over, I forgot it.

17 So I have a couple of questions about  
18 some proposals that the Governor has and  
19 whether you've been part of this analysis and  
20 what that might be.

21 So one is to authorize tax incentive  
22 benefits for converting commercial property  
23 into affordable housing. And with an 80/20  
24 split, so that 20 percent would be

1 affordable; a subset of that would be more  
2 deeply affordable. And for the benefit  
3 period, which it's not clear what that is.

4 But, you know, were you involved in --  
5 your office, in figuring that out?

6 DTF ACTING COMMISSIONER HILLER: No.

7 ASSEMBLYWOMAN SIMON: Okay. So you  
8 don't have any analysis about whether a  
9 different split like 25/75 might be more  
10 appropriate or justifiable financially.

11 DTF ACTING COMMISSIONER HILLER: You  
12 know, I really don't. I last worked on  
13 housing policy, you know, 12 years ago,  
14 13 years ago. I really don't have a view  
15 there. Or any knowledge base there.

16 ASSEMBLYWOMAN SIMON: Thank you. I  
17 appreciate it.

18 CHAIRWOMAN WEINSTEIN: We go back to  
19 the Senate.

20 SENATOR GOUNARDES: Thank you,  
21 Commissioner. I have just a couple of quick  
22 follow-ups in my remaining three minutes.

23 I want to talk about the Direct File  
24 pilot. I'm very excited about this. As you



1 know, I wrote you a letter a couple of months  
2 ago about this. I think it's great. And I  
3 think it's the future of tax collection and  
4 administration.

5 You had mentioned that the pilot's  
6 going to start with a limited number of  
7 credits and exemptions. Can you kind of  
8 expand on that a little bit? What are the  
9 limited credits and exemptions that are going  
10 to be part of that initial pilot?

11 DTF ACTING COMMISSIONER HILLER: So  
12 the pilot in its first instance is being  
13 driven by the IRS. And they've set some  
14 limitations on the types of income deductions  
15 and credits that will be administered at the  
16 federal pilot.

17 I think you can't have more than \$1500  
18 of interest income. You can't -- you have to  
19 be taking the standard deduction, you can't  
20 be itemizing. They are allowing the earned  
21 income tax credit and the child credit. In  
22 New York we are following along on that,  
23 because we're a parallel filing tool. So we  
24 are following the IRS's limitations around

1 that.

2 So if you were taking an exotic  
3 credit, you can't file. If you have itemized  
4 deductions, you can't use this tool.

5 SENATOR GOUNARDES: Got it.

6 DTF ACTING COMMISSIONER HILLER: This  
7 year.

8 SENATOR GOUNARDES: Gotcha.

9 DTF ACTING COMMISSIONER HILLER: I  
10 mean, I expect that we'll be able to roll it  
11 out next year.

12 One of the things that we are -- we  
13 want to be careful about is to make sure that  
14 taxpayers who are using these tools  
15 understand whether the tool is right for  
16 them. So it supports New York City income  
17 tax, but the pilot does not support Yonkers  
18 income tax. So this is not the right  
19 solution for residents of Yonkers this year.

20 SENATOR GOUNARDES: Gotcha.

21 DTF ACTING COMMISSIONER HILLER: It  
22 will be next year.

23 SENATOR GOUNARDES: Okay. Great.  
24 That's really helpful.

1           And do you anticipate or can you  
2           anticipate, you know, other jurisdictions  
3           that have -- other countries, I should say,  
4           that have kind of taken this step in direct  
5           file, they kind of go one step further and  
6           they actually mail or they send their  
7           taxpayers or their residents pre-filled tax  
8           returns, ultimately, just for certification  
9           as part of the electronic system.

10           Do you see that as being kind of the  
11           next step in our process here, assuming we  
12           get through the pilot and we're able to, you  
13           know, work out the kinks and do it  
14           successfully?

15           DTF ACTING COMMISSIONER HILLER: I  
16           think we have a lot of work to do before we  
17           can get there, our own internal analysis.

18           You know, so one of the issues that  
19           often drives an exception in our processing  
20           work is the discrepancy between what a  
21           taxpayer reports on their tax return as their  
22           withholding and what the employer reports as  
23           having withheld for that employee. And that  
24           discrepancy triggers questions to the

1 taxpayer about that difference.

2 Our own internal work suggests that in  
3 almost every case, it's a problem on the  
4 employer side in the reporting, not a problem  
5 on the employee side on their reporting. But  
6 we don't know there's a discrepancy until  
7 we're working an individual return. And so  
8 individual taxpayers sort of bear the brunt  
9 of working through the correction of those  
10 errors. And we've been doing a lot of work  
11 with employers to try to improve the payroll  
12 reporting and the withholding reporting that  
13 they are doing.

14 And if we can get to a place where we  
15 feel that that's reliable, then we could use  
16 that to generate pre-filled returns. But  
17 right now we have significant doubts about  
18 the reliability of the data we start with.

19 SENATOR GOUNARDES: Gotcha.

20 Well, thank you very much. Hopefully  
21 we can see that to completion in the future.  
22 Thank you.

23 DTF ACTING COMMISSIONER HILLER: Sure.

24 CHAIRWOMAN WEINSTEIN: So I think we

1 are finished with questions. A record,  
2 maybe.

3 ASSEMBLYWOMAN SIMON: It's a record.

4 DTF ACTING COMMISSIONER HILLER: It is  
5 a record. Thank you so much.

6 CHAIRWOMAN WEINSTEIN: Thank you,  
7 Commissioner Hiller, for being here.

8 So next we will be having a panel  
9 that -- to make presentations. Again, it  
10 will be three minutes each, and then members  
11 can ask questions.

12 So the panel is, if you could come  
13 forward and take a chair -- we have to have  
14 some more chairs, though. The first four --  
15 we'll be playing musical -- the first four  
16 get a chair. New York State Assessors  
17 Association, Warren Wheeler; Fiscal Policy  
18 Institute, Nathan Gusdorf; New York  
19 Communities for Change, James Inniss; Invest  
20 In Our New York, Carolyn Martinez-Class;  
21 Citizen Action of New York, Rebecca Garrard;  
22 and Strong Economy For All Coalition,  
23 Michael Kink.

24 So just, again, a reminder for all of

1           you as you take your seats that your  
2           testimony has been received, distributed to  
3           all of the members here as well as members  
4           from these committees who are not here, and  
5           have been or will be, I think, already posted  
6           by the Senate, and I believe the Assembly  
7           also -- or shortly by the Assembly.

8                     And after all of you have made your  
9           presentations, there will be opportunity for  
10          members to ask questions.

11                    And I know the mics are a little  
12          bit -- they're these new mics, so just -- if  
13          whoever is speaking could just use the --  
14          make sure that your mic is on.

15                    And we start with Warren Wheeler.

16                    MR. WHEELER: Good morning. Thank  
17          you. In the accordance of time, I will get  
18          right to it.

19                    So everybody has the -- our written  
20          testimony from the New York State Assessors  
21          Association. My name is Warren Wheeler, and  
22          I'm the executive director. So thank you  
23          very much for this opportunity today.

24                    First off, I'd like to show our

1 support for Part M of the budget clarifying  
2 the telecommunications assessment ceiling.  
3 One part that we would respectfully request  
4 again is that there's some amendment in there  
5 that allows for these companies to provide  
6 inventory. It's very important that we get  
7 this inventory. Right now we are not  
8 afforded that inventory, and so it's very  
9 difficult for us to maintain any kind of  
10 assessment information when the inventory's  
11 not provided.

12 It's very similar, if you would think  
13 about it, as asking a property owner -- we're  
14 standing there and the house is behind a  
15 curtain, and we have to rely on the property  
16 owner to tell us what's there.

17 All other property, we have the  
18 accessibility of going and visiting and  
19 obtaining the inventory. These types of  
20 properties, we do not.

21 Also I would like to mention support  
22 for A1292 and S04065. It's the -- what we  
23 call the Condo Bill. For those of you who  
24 have been here for a while, you'll understand

1           that we've been looking for a condo bill for  
2           quite some time. Last year there was a  
3           companion bill that was passed for  
4           Greenburgh, and we would also like to throw  
5           our support in for a condo bill that is at  
6           local option.

7                         So we feel that right now there's a  
8           huge discrepancy between the way condominiums  
9           and cooperatives are treated in relationship  
10          to their single-family counterparts. And  
11          while the bill originally may have been  
12          created to -- you know, for affordable  
13          housing or something along those lines, it's  
14          definitely become what we refer to as a  
15          loophole. And it's being used -- the homes  
16          that are being built are not in the  
17          affordable homes category.

18                        And I think that's all I've got for  
19          right now, so I don't want to take any more  
20          of your time, so I would entertain any  
21          questions.

22                        CHAIRWOMAN WEINSTEIN: Great. Thank  
23          you. So we move on to Fiscal Policy  
24          Institute.



1           MR. GUSDORF: So thank you to the  
2           committee. My name is Nathan Gusdorf. I'm  
3           the executive director of the Fiscal Policy  
4           Institute. We're a nonpartisan think tank  
5           that studies state tax and budget policy.

6           We'd say the state's revenue needs at  
7           this point are apparent, given the  
8           Executive Budget's proposed cuts to  
9           Foundation Aid, Medicaid, and the absence of  
10          new initiatives in housing and climate  
11          investment.

12          The question for this committee is to  
13          what extent the state can raise additional  
14          revenue through taxes to meet those needs.  
15          But first I want to speak to some of the  
16          issues that have come up today and that  
17          always come up in terms of the viability of  
18          raising revenue for the state's population  
19          and fiscal base.

20          So the Fiscal Policy Institute  
21          conducted a detailed study that you may have  
22          seen; we released it in the fall. It was a  
23          statistical overview of census data, federal  
24          tax data and state tax data going back to

1           2015 to see whether there's any truth to  
2           these claims of taxpayer outmigration.

3                     We found that in normal years the top  
4           1 percent of income earners typically move  
5           out of the state at about one-fourth of the  
6           rate of all other income groups. Further, we  
7           found that when those high earners do move  
8           out of the state, they typically move to  
9           states like New Jersey and California that  
10          have very comparable tax structures to our  
11          own.

12                    And finally, we looked statistically  
13          at the two most recent tax increases, in 2017  
14          and 2021, to see if that changed migration  
15          behavior based on prior-year tax returns, and  
16          we found that they generally did not.

17                    The other common argument that we've  
18          heard today is that there's that small share  
19          of taxpayers who pay too much of the state's  
20          income tax revenues. But as Senator Hoylman  
21          noted, they earn about a third of all income  
22          earned in the state, while paying about  
23          44 percent of all income tax revenue for the  
24          state. So that's proportionate, reflecting a

1 mild degree of progressivity in the state's  
2 tax structure.

3 We also have a fairly large stock of  
4 these high earners that's growing, suggesting  
5 that we have ongoing fiscal stability for  
6 that high end of the tax base.

7 If you look at the actual structure of  
8 the state's taxes, there's considerable room  
9 to raise income tax rates at the top in  
10 particular, and to repair certain  
11 peculiarities of our progressivity. Our top  
12 tax rate is 10.9 percent. New Jersey's top  
13 income tax rate is 10.8 percent; California's  
14 is 13.3 percent. But New York imposes that  
15 top rate on people who make over \$25 million  
16 a year. In New Jersey and California, they  
17 impose their top rates on people who make  
18 over a million dollars a year. So we're  
19 fairly skewed in the structure of our top  
20 brackets.

21 There are other sound tax-policy  
22 options for addressing these revenue needs,  
23 including looking at higher tax rates on  
24 capital gains, possibly structured as a

1 higher net investment income tax rate, which  
2 was done in Minnesota. And that's modeled on  
3 a federal policy that is used to pay for the  
4 Affordable Care Act.

5 There's also a lot that needs to be  
6 done in corporate and business taxation, in  
7 part due to the fact that most businesses are  
8 not structured as corporations, and so they  
9 don't pay the corporate tax. About  
10 95 percent of businesses today are LLCs and  
11 partnerships. It's worth considering doing a  
12 business entity profits tax that would apply  
13 across the whole field of businesses.

14 Thank you.

15 CHAIRWOMAN WEINSTEIN: New York  
16 Communities for Change.

17 MR. INNIS: How you doing? My name  
18 is James Inniss, and I come before you on  
19 behalf of New York Communities for Change.

20 We are one of the largest  
21 community-based organizations in the country,  
22 with over 20,000 members in New York City and  
23 Long Island. We bring neighbors together to  
24 help build community power through direct

1 action, legislative advocacy and community  
2 organizing. We organize in low-income  
3 communities of color and for the 98 percent  
4 of New Yorkers who haven't been mentioned in  
5 this hearing today.

6 New York is staring down a  
7 catastrophe -- orange skies, flooded streets,  
8 deadly blizzards and unbreathable air are the  
9 new reality. Climate migration is bringing  
10 more families to New York who need the same  
11 things that our communities need. And if we  
12 don't cut climate-heating pollution by at  
13 least 40 percent in the next six years,  
14 things will get even worse. And on top of  
15 that, New York is facing a profound housing  
16 emergency.

17 It's hard to overstate the urgency.  
18 2030 is five years away, and the climate  
19 science is clear: Failure to reduce  
20 climate-heating pollution by 40 percent will  
21 guarantee catastrophe both locally and  
22 globally.

23 In order to cut pollution and protect  
24 our communities, we need to make it rain --

1 but not climate rain, money rain. That's  
2 right, we need historic investments into our  
3 communities, and the good news is we have  
4 plenty of money in the state to make that  
5 happen.

6 New York can rise to the occasion of  
7 these unprecedented times that we're living  
8 in and lead our nation in solutions at the  
9 scale of the crisis that we are facing right  
10 now. Or we can just allow them to spiral out  
11 of control.

12 At the same time as all of this,  
13 homeownership is increasingly out of reach  
14 for most New Yorkers, with more families  
15 being unable to afford their rent and many  
16 more living in substandard, low-quality  
17 housing.

18 As climate disasters displace millions  
19 of climate refugees northward, an elevated  
20 number of asylum seekers are making the  
21 housing shortage in New York even more acute.  
22 Within just New York City, 40 percent of  
23 residents are facing displacement due to  
24 rising sea levels.

1           It's a race to the bottom, and it does  
2           not have to be this way. That's why New York  
3           Communities for Change supports the Invest in  
4           Our New York package which, if passed, will  
5           raise tens of billions of dollars through the  
6           combination of personal income tax increases  
7           on the top 5 percent of earners, corporate  
8           tax reforms targeting the most profitable  
9           corporations -- which is fewer than the top  
10          1 percent of them -- addressing loopholes  
11          that allow millionaire and billionaires to  
12          shield their wealth from tax liability.

13           The Senate and Assembly must listen to  
14          the 73 percent of New Yorkers who support  
15          raising taxes on the rich, and we must act  
16          today. Together we can transform our state  
17          into a place where everyone can live, breathe  
18          clean air, and afford beautiful, safe,  
19          fossil-free homes. Let's do it together.

20           And for everybody that celebrates,  
21          have a happy Love Day.

22           CHAIRWOMAN WEINSTEIN: Thank you.

23           So now, Invest in Our New York.

24           MS. MARTINEZ-CLASS: Good morning. My

1 name is Carolyn Martinez-Class, and I am the  
2 campaign manager for the Invest in Our  
3 New York Campaign. The Invest in Our  
4 New York Campaign is an unprecedented  
5 campaign for a more just economy, fighting  
6 through the state budget process.

7 We have a two-prong approach. We are  
8 arguing for the need for critical investments  
9 in housing, infrastructure, healthcare and  
10 more, while advocating for those investments  
11 to be paid for through increased taxes on  
12 New York's millionaires, billionaires, and  
13 wealthiest corporations.

14 You all have my testimony, so I'm not  
15 going to -- I'm not going to reiterate what's  
16 on there. I'm going to respond directly,  
17 though, to some of the things that have been  
18 raised.

19 So, one, proposals that are part of  
20 the Invest in Our New York agenda and the  
21 broader concept of raising taxes have been  
22 described as crazy through the course of this  
23 conversation. And to that, I'm going to say  
24 that those proposals have the support of



1 two-thirds of New Yorkers regardless of  
2 political affiliation, whether rural,  
3 suburban, or in major urban areas in our  
4 state. And so that is a majority support for  
5 those proposals.

6 The budget today has been described as  
7 responsible. I don't know in what universe a  
8 budget that cuts education, healthcare, and  
9 fails to fund and meet the moment we're in in  
10 terms of the housing crisis can be deemed  
11 responsible. And we know that fundamentally  
12 our budgets are documents that are  
13 reflections of our priorities as a state.  
14 This is a budget that will further inequity.

15 New York is the most unequal place in  
16 the country. Affordability has -- like  
17 New York is the most unaffordable place in  
18 the country. Wages have not kept apace,  
19 despite the increase in the last year. And  
20 we know New Yorkers are in need. And so I  
21 just want to emphasize how critical it is to  
22 make deep and lasting serious transformative  
23 investments in our social safety net for  
24 working-class people.

1           And we've talked a lot about  
2           outmigration. The thing that hasn't been  
3           raised is that the Comptroller, think tanks,  
4           everyone's aligned that the people likeliest  
5           to leave are working-class people. People --  
6           in the Comptroller's report in December 2023,  
7           he named that people who are likeliest to  
8           leave the state were people earning less than  
9           \$500,000 a year. Those people have not been  
10          impacted by tax increases in terms of the  
11          proposals we've advocated and pushed for.

12                 And so it really speaks to the need to  
13          make investments in affordability and the  
14          urgency surrounding that right now. And we  
15          agree with what's been named around the need  
16          for more progressive -- more progressivity in  
17          the way our income tax is structured. And so  
18          to that we'd say there's a Meeks/Jackson bill  
19          that we hope you will take under  
20          consideration for one-house budget proposals  
21          and in the final budget.

22                 And we would advocate for diversifying  
23          our sources of revenue, including by taxing  
24          wealth through proposals to tax capital

1 gains, inheritances, as well as the  
2 billionaire's tax carried by Senator Ramos.

3 Thank you.

4 CHAIRWOMAN WEINSTEIN: Thank you.

5 And now Citizen Action of New York.

6 MS. GARRARD: We're on.

7 Thank you for the opportunity to  
8 testify. I will for the sake of brevity,  
9 because you also have the written testimony,  
10 just say "Plus one" instead of going into  
11 detail to the information that has been  
12 shared about both the popularity of  
13 progressive taxation and the impact of  
14 New Yorkers and who's leaving and who's not  
15 leaving, right, who's suffering and who's  
16 benefiting.

17 So I will just plus-one that and  
18 really spend my time talking about why the  
19 sum of money that we propose is vitally  
20 necessary.

21 Budgets are moral documents, and they  
22 reflect the choices, right, of the Governor  
23 and the Legislature in terms of who they're  
24 prioritizing. And so this truly is a

1 decision: Are we prioritizing the wealthiest  
2 New Yorkers, who will be fine if they pay a  
3 little more, or are we prioritizing  
4 struggling low- and moderate-income families  
5 who are already barely surviving and  
6 certainly cannot afford to make any more cuts  
7 or lose any more resources?

8 And so certainly the cuts that have  
9 been proposed to Medicaid, to Foundation Aid  
10 are wholly unacceptable. And there's needs  
11 and gaps to be filled on top of that, right?  
12 So I'm going to mention a few of those.

13 When we think about healthcare,  
14 healthcare remains unaffordable for many  
15 New Yorkers. And in fact over  
16 740,000 New Yorkers have a medical debt in  
17 collections. That is a moral failure of this  
18 state. Healthcare should be considered by  
19 everyone a human right. And so that has to  
20 be addressed.

21 We support the increase in the  
22 hospital financial assistance and moving that  
23 threshold for eligibility up from 300 percent  
24 of the federal poverty limit to 600 percent.

1 We support the Governor's solution -- idea  
2 for cost-sharing on insulin. And we  
3 certainly vehemently push back on any cuts to  
4 Medicaid.

5 Through the Invest in Our New York  
6 package, that could be accomplished and we  
7 could certainly make a dent in this  
8 ever-escalating and unsustainable housing  
9 crisis that we're in.

10 So we know that working-class families  
11 are being driven out of the state due to  
12 affordability. To that end, we must have the  
13 Housing Access Voucher Program. We must have  
14 legislation to create a Social Housing  
15 Development Authority to have long-term fixes  
16 to this crisis. And of course none of these  
17 solutions will be tenable or effective  
18 without good-case tenant protections.

19 In terms of climate, I will also just  
20 plus-one. We are in no way planning for the  
21 funding to meet the mandates of CLCPA. We  
22 support the Climate Change Superfund Act, and  
23 we support using IONY funding to meet those  
24 mandates, which we are not on schedule to

1 meet.

2 In terms of child -- you can read the  
3 testimony. There's multiple needs. But  
4 thank you for the time.

5 CHAIRWOMAN WEINSTEIN: Thank you.

6 And to close out this panel, Strong  
7 Economy for All Coalition, Michael Kink.

8 MR. KINK: There we go. Thank you.

9 Michael Kink, executive director of  
10 the Strong Economy for All Coalition. We're  
11 a coalition of labor unions and community  
12 groups working together for economic, social  
13 and racial justice.

14 We support the five-bill package that  
15 the Invest in Our New York Campaign has put  
16 together to tax high incomes, the most  
17 profitable corporations and the most extreme  
18 wealth.

19 The tax increases that Invest in Our  
20 New York put forward and that the Legislature  
21 passed in 2021 have been successful.  
22 According to the Comptroller, they've raised  
23 \$10 billion more than predicted, and they've  
24 added to that cash stockpile. The state is

1 not only sitting on \$20 billion in reserve  
2 funds, there's another \$10 billion in unspent  
3 money in the checking account.

4 There's essentially a \$30 billion  
5 reserve right now, in a year when we're  
6 facing an affordability crisis.

7 The facts are the facts. FPI has put  
8 it out: The people that are moving are  
9 low-income and working-class New Yorkers.  
10 The front page headline of the New York Times  
11 said "New York's millionaire class is  
12 growing. Other people are leaving."

13 Those kinds of headlines and those  
14 kinds of studies are the types of headlines  
15 and stories that should inform the debate  
16 here at the Capitol. You cannot move to  
17 avoid the corporate tax bill that we've  
18 proposed in Invest in Our New York.  
19 ExxonMobil is already based in Irving, Texas.  
20 Tyson Chicken is already based in Arkansas.  
21 They sell hundreds of millions of dollars of  
22 products into New York, and they pay New York  
23 taxes on those profits. That's right, and  
24 that's appropriate.

1           That's why public polling, as Carolyn  
2 mentioned, shows that vast majorities of  
3 New Yorkers, including majorities of  
4 conservatives and Republicans, say that  
5 New York should increase taxes on the  
6 highest-earning individuals, the most  
7 profitable corporations, and the wealthiest  
8 households to fund public programs and  
9 services.

10           I want to take one second to talk  
11 about capital gains tax, because Blake  
12 Washington and Mark Massaroni, in their  
13 technical briefing with reporters after the  
14 Governor's budget address, noted that the  
15 thing that took us from a \$5.5 billion  
16 deficit to a \$2.2 billion surplus was a burst  
17 of capital gains.

18           We taxed those capital gains at our  
19 regular income tax rate. Those individuals  
20 are dramatically undertaxed at the federal  
21 level. You pay higher taxes on your paycheck  
22 than you do when you get a check from your  
23 huge investments on Wall Street.

24           So a capital gains tax, like



1 Washington State instituted two years ago,  
2 like Minnesota instituted this year, would  
3 benefit New York tremendously. Billions of  
4 dollars to fund housing, to fund schools, to  
5 fund healthcare -- and it would only hit  
6 1 percent of taxpayers who are already  
7 undertaxed at the federal level.

8 A capital gains tax is timely. It's  
9 one of the five bills, and we stand with the  
10 Invest in Our New York Campaign to urge you  
11 to consider all five bills in this year's  
12 budget. Thank you.

13 CHAIRWOMAN WEINSTEIN: Thank you.

14 We go to Assemblyman Ra.

15 ASSEMBLYMAN RA: Thank you.

16 Just wanted to point out -- and I mean  
17 if you disagree, please tell me. But  
18 Mr. Gusdorf, you talked about that it was  
19 said earlier that, you know, the higher  
20 earners pay too high a rate. I mean,  
21 maybe -- we would probably agree to disagree  
22 about that. But I think what Acting  
23 Commissioner Hiller was saying, which is  
24 something that I think is not something that

1 can be argued, is that, you know, they make  
2 up a very large portion of our tax base. And  
3 when there's fluctuations, that can have a  
4 very big impact on our tax receipts.

5 Would -- do you disagree with that?

6 MR. GUSDORF: I think that's generally  
7 right.

8 ASSEMBLYMAN RA: Yeah. So just that  
9 point of clarification, that we can debate  
10 what the appropriate share is, but it does  
11 have an impact when we have -- see ebbs and  
12 flows in the economy because we are so  
13 heavily reliant on that piece of the tax  
14 base.

15 But I did want to ask about something  
16 which I think many of us might be able to  
17 agree upon, which is if you have any comments  
18 on the recent report that came out about all  
19 the tax incentive programs and the, you know,  
20 kind of a lack of a bang for a buck that  
21 we're getting.

22 Because when we talk about revenue,  
23 certainly there are any number of proposals  
24 out there for new sources of revenue, but

1           there is also a lot of revenue we forego as a  
2           state trying to, you know, do so in the name  
3           of economic development, and most of the  
4           programs are not doing too well in terms of  
5           that.

6                     MR. GUSDORF:  Yeah, and FPI would  
7           agree with that.

8                     I'd say there are two pretty widely  
9           agreed-upon fundamental principles of sound  
10          tax policy.  One is progressivity, to make  
11          the tax system fair, and the other is having  
12          a broad base.  The more that you selectively  
13          grant exemptions or cut people out of the tax  
14          system, the less revenue you get and the more  
15          burden is shifted onto all other taxpayers.

16                    And so all of those credits and  
17          exemptions certainly really undermine the  
18          broad-based prong of New York's tax code.  
19          And, you know, they should be at a minimum  
20          very heavily scrutinized.

21                    ASSEMBLYMAN RA:  And if anybody else  
22          has any thoughts, there's 35 seconds left.

23                    MS. MARTINEZ-CLASS:  The Invest in Our  
24          New York Campaign supports shifting those

1 economic development funds into the public  
2 programs we've named.

3 MR. KINK: And I'll note that the  
4 return on investment data in that report  
5 shows that there's not a single, quote  
6 unquote, economic development program in  
7 New York that provides a higher return on  
8 investment than the investments in early  
9 childhood education, public health programs,  
10 or housing for New Yorkers who are homeless.

11 All of those programs provide a way  
12 bigger bang for the buck than any of the  
13 economic development programs we have now.

14 ASSEMBLYMAN RA: Thank you.

15 CHAIRWOMAN WEINSTEIN: We next go to  
16 Assemblyman Mamdani.

17 ASSEMBLYMAN MAMDANI: Thank you very  
18 much for all of your testimonies.

19 Mr. Gusdorf, I wanted to just follow  
20 up with you on a set of questions.

21 You know, the Governor in her State of  
22 the State said that, quote, People aren't  
23 moving for warmer weather or for lower taxes,  
24 they're moving next door. I just wanted to

1 know what your thoughts were on that and if  
2 you could elaborate on what do you think the  
3 best way is to deal with the affordability  
4 crisis that she was alluding to.

5 MR. GUSDORF: Thank you,  
6 Assemblymember. That -- we were very pleased  
7 to see the Governor make that statement in  
8 her State of the State, as it tracked very  
9 closely with the findings of our report that  
10 had been published just a little bit earlier.

11 What we think that shows -- and it  
12 follows on previous research that FPI has  
13 done as well -- is that the biggest  
14 differences between New York and neighboring  
15 states is really in the cost of living, and  
16 in particular in the cost of housing and the  
17 cost of rent -- really not the tax structure.

18 So that confirms what should be  
19 intuitive to many of us, which is that just  
20 the challenges of affordability, and in  
21 particular the high cost of housing and rent,  
22 is a much stronger explanation for migration  
23 behavior of low- and middle-income earners in  
24 particular.

1           What we think should be done at the  
2           state level, among other things, is really  
3           significant public investment in housing  
4           construction. It's important to create  
5           affordable housing for people at the low end  
6           of the income spectrum, but it's also  
7           important to increase the production of  
8           housing for middle-income renters, both so  
9           that people have somewhere to go, but really  
10          to reduce pressure in the housing market.

11           And we think it's unlikely that you'll  
12          see those kinds of protections against market  
13          risks for middle-income renters without a  
14          focused plan of state investment in something  
15          like a social housing authority that has been  
16          proposed in the Assembly.

17           ASSEMBLYMAN MAMDANI: Thank you for  
18          that.

19           And just a follow-up question from  
20          some of what Commissioner Hiller's testimony  
21          focused on, as well as the questions that  
22          they received. I just wanted to hear your  
23          thoughts.

24           You know, after the personal income

1 tax increase that we enacted through the  
2 budget in 2021, the state's own tax website  
3 showed the millionaire population grew and  
4 the rate of millionaire outmigration shrank.

5 What does that data tell us? What  
6 does it tell you, what does it tell the  
7 Fiscal Policy Institute about the  
8 correlation -- or lack thereof -- between  
9 taxes and the millionaire population?

10 MR. GUSDORF: Yeah, there are a few  
11 things we've seen.

12 One is that when we look at the data  
13 that we can see from other sources such as  
14 the census, as well as the Tax Department's  
15 data, the millionaire outmigration trend  
16 decreases from 2020 to 2021. So obviously  
17 the pandemic itself is a confounding factor.

18 But 2021 is when the state last raised  
19 income taxes. So it doesn't look to us,  
20 based on the data that we can see, that that  
21 caused more people to move away. Fewer high  
22 earners moved away from 2020 to 2021.

23 I think I missed something.

24 ASSEMBLYMAN MAMDANI: Thank you very

1 much.

2 CHAIRWOMAN WEINSTEIN: So thank you  
3 all for being here. There are no further  
4 questions.

5 As I mentioned earlier, all of the  
6 testimony is available for the public as well  
7 as colleagues to see on the Assembly and  
8 Senate's websites.

9 Just for anybody listening, as of the  
10 close of today, if anybody who hasn't yet  
11 submitted testimony, you can still submit  
12 testimony that will be made public.

13 So this concludes the Tax hearing for  
14 this year on the Governor's budget. We will  
15 reconvene at -- promptly at 12 noon for the  
16 start of the Housing hearing. Thank you.

17 (Whereupon, the budget hearing  
18 concluded at 11:22 a.m.)

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