

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
2014-2015 EXECUTIVE BUDGET
ON TAXES

5

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Hearing Room B
Legislative Office Building
Albany, New York

8

9

February 10, 2014
9:31 a.m.

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PRESIDING:

12

Senator John A. DeFrancisco
Chair, Senate Finance Committee

13

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Assemblyman Herman D. Farrell, Jr.
Chair, Assembly Ways & Means Committee

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PRESENT:

16

Senator Liz Krueger
Senate Finance Committee (RM)

17

18

Assemblyman Robert C. Oaks
Assembly Ways & Means Committee (RM)

19

Senator John J. Bonacic

20

Assemblyman Michael J. Cusick

21

Senator Malcolm A. Smith

22

Assemblywoman Nicole Malliotakis

23

Senator Diane Savino

24

Assemblywoman Sandra R. Galef

1 2014-2015 Executive Budget
Taxes
2 2-10-14
3
4 PRESENT: (Continued)
5 Senator David J. Valesky
6 Assemblyman Kenneth P. Zebrowski
7 Senator Thomas F. O'Mara
8 Assemblyman Edward C. Braunstein
9 Senator Elizabeth O'C. Little
10 Assemblyman Kenneth D. Blankenbush
11 Senator Michael Nozzolio
12 Assemblyman Raymond W. Walter
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1 2014-2015 Executive Budget
 Taxes
 2 2-10-14

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1 CHAIRMAN DeFRANCISCO: The hearing is
2 now called to order. Our first speaker will
3 be Commissioner Mattox of the Department of
4 Taxation and Finance.

5 But in the meantime, I just want to
6 mention what we've said at each one of these
7 hearings, and that is this hearing is called
8 pursuant to the Constitution of the State of
9 New York. And what the hearing is, it's a
10 hearing to deal with various issues in the
11 Governor's budget. This morning's hearing
12 deals with taxes in the State of New York.

13 And these taxes in the State of
14 New York are important for everyone, and we
15 hope everyone would pay attention to the
16 detail of the testimony.

17 Each legislator will be given seven
18 minutes to ask questions. If they determine
19 that they need more time, they're going to
20 have to wait till everyone else gets a
21 chance.

22 The speaker's time is listed on the
23 clock before the speaker, and please adhere
24 to the time frame so that everyone has an

1 opportunity to ask questions and all the
2 witnesses are able to testify that are on the
3 list.

4 It's going to be long day today
5 because we have two separate hearings;
6 Economic Development in the afternoon. So
7 it's important that we start right away.

8 For the Senate, we have the ranking
9 member of the Senate Finance Committee,
10 Senator Liz Krueger with us, Senator Bonacic,
11 Senator Malcolm Smith. Senator Savino was
12 here a moment ago, and she will be back.

13 Assembly Ways and Means Chair Denny
14 Farrell will announce who's here for the
15 Assembly.

16 CHAIRMAN FARRELL: We've been joined
17 by Assemblyman Mike Cusick and Assemblywoman
18 Malliotakis.

19 CHAIRMAN DeFRANCISCO: The first
20 witness is Thomas H. Mattox, commissioner of
21 the New York State Department of Taxation and
22 Finance.

23 Thank you.

24 COMMISSIONER MATTOX: Good morning.

1 CHAIRMAN FARRELL: Good morning.

2 COMMISSIONER MATTOX: Chairman
3 DeFrancisco, Chairman Farrell and
4 distinguished members of the committees, on
5 behalf of Governor Cuomo and my colleagues at
6 the Department of Taxation and Finance, thank
7 you for the opportunity to discuss the
8 Governor's 2014-2015 Executive Budget.

9 CHAIRMAN DeFRANCISCO: Excuse me,
10 there seems be an echo. Can you move it a
11 little closer? Is it on?

12 COMMISSIONER MATTOX: Test. One, two,
13 three, four. Better?

14 CHAIRMAN DeFRANCISCO: Yes.

15 COMMISSIONER MATTOX: Would you like
16 me to start again or continue?

17 CHAIRMAN DeFRANCISCO: No, I'd like --
18 try another mic, because it's still echoing,
19 I don't know quite why. It hasn't happened
20 before.

21 COMMISSIONER MATTOX: Test, one, two,
22 three.

23 CHAIRMAN DeFRANCISCO: That's better,
24 I think.

1 COMMISSIONER MATTOX: Start again?

2 CHAIRMAN DeFRANCISCO: Yeah.

3 And senator Rivera is also here.

4 COMMISSIONER MATTOX: Well, good
5 morning. Chairman DeFrancisco, Chairman
6 Farrell, and distinguished members of the
7 committees, on behalf of Governor Cuomo and
8 my colleagues at the Department of Taxation
9 and Finance, thank you for the opportunity to
10 discuss the Governor's 2014-2015 Executive
11 Budget.

12 The fiscal discipline exercised by
13 Governor Cuomo and the Legislature has the
14 state poised to go from what was a
15 \$10 billion deficit in 2011-2012 to a
16 \$2 billion surplus in 2016-2017. Governor
17 Cuomo's Executive Budget proposes utilizing
18 that surplus to provide tax relief for
19 individuals and businesses, improve the
20 state's competitiveness, and spur economic
21 growth -- sound policy proposals recommended
22 and validated by the Governor's Tax Relief
23 and Tax Reform and Fairness Commissions.

24 Anchoring the agendas to relieve real

1 property taxes, the state's largest tax
2 burden. The Executive Budget calls for a
3 two-year freeze on increases in local real
4 property taxes for homeowners, with
5 incentives for local governments and school
6 districts to address the structural causes of
7 our state's high tax burden. It also
8 includes a circuit breaker tax credit to
9 provide immediate relief to homeowners based
10 on their ability to pay. In addition, the
11 budget provides tax relief to families who
12 struggle to find affordable housing, not only
13 in New York City but all across the state.

14 The Governor's budget takes major
15 steps towards improving the state's business
16 climate by proposing a major reform to the
17 state's primary corporate taxes while
18 lowering the tax rate from 7.1 to
19 6.5 percent. Also, the Executive Budget
20 offers help for the state's manufacturing
21 sector by providing a 20 percent real
22 property tax credit and reducing the tax rate
23 for upstate manufacturers to zero. And it
24 includes measures to modernize the tax code

1 by repealing obsolete nuisance taxes and
2 simplifying and eliminating the filing
3 requirement for hundreds of thousands of
4 New Yorkers.

5 The Executive Budget builds on a solid
6 core of successful initiatives implemented
7 over the past few years, a foundation your
8 legislative support helped to engineer.

9 We've worked steadily to fulfill
10 Governor Cuomo's vision of making government
11 work for the people. Our SAGE-initiated call
12 center consolidation has dramatically
13 improved customer service delivery, wait
14 times have fallen by more than 50 percent,
15 the need for agent-assisted calls is down,
16 and agencies reduced the time it takes to
17 resolve customer problems.

18 Our full suite of online services
19 allows taxpayers to now conduct virtually all
20 of their business with the department online,
21 saving them time and money.

22 E-filing is up, with 87 percent of
23 income taxpayers filing electronically. This
24 year we've heavily marketed free filing

1 options for taxpayers and we've established a
2 new web file option for taxpayers to file
3 their income taxes directly with the
4 department at no cost. Currently, 85 percent
5 of all New Yorkers are eligible for one of
6 the free file options available through our
7 website.

8 Business taxpayers have led the way in
9 adopting e-filing. Our stand-alone web-based
10 return for sales tax vendors helped drive a
11 jump in e-filed sales tax returns from
12 34 percent in the sales tax quarter ended in
13 December of 2010 to 86 percent in the quarter
14 ending December of 2013. Along with reduced
15 transaction costs, the new web filing system
16 has reduced taxpayer filing errors
17 dramatically, improving the accuracy and
18 timeliness of the distribution of revenue to
19 local governments. This past September, the
20 Center for Digital Government recognized this
21 new system by awarding the department a Best
22 of New York Award for Best Application
23 Serving an Agency's Business Needs.

24 Last year's enacted budget charged the

1 tax department with implementing several
2 important programs, including facilitating
3 the advance payment of the family tax credit,
4 the driver's license suspension program, and
5 the STAR registration program. I want to
6 take this opportunity to provide the
7 committees with an update on our progress.

8 We are currently preparing to send the
9 advance credit payments to eligible taxpayers
10 by October of this year. As you recall,
11 payments of \$350 will go to families with one
12 or more dependents and whose income was
13 between \$40,000 and \$300,000. To ensure that
14 all eligible homeowners retain their STAR
15 exemption, all of the 2.6 million households
16 that currently claim a Basic STAR exemption
17 were mailed registration codes and, when
18 necessary, were contacted by mail and by
19 phone multiple times.

20 In addition, we undertook an
21 aggressive and widely recognized public
22 messaging campaign. To date, 2.4 million
23 households, or about 89 percent, have
24 registered. We will begin to notify local

1 assessors to remove exemptions from the tax
2 rolls on March 7th for homeowners that fail
3 to register by that date. However, it should
4 be noted that the enabling statute allows
5 homeowners up to one year to contact us to
6 have their exemption reinstated. The
7 Governor has introduced legislation in the
8 Executive Budget to allow the department to
9 provide a rebate to any homeowner who misses
10 the above deadline and would have been
11 eligible for STAR had they contacted us
12 within the registration period.

13 Last year's state budget also directed
14 the department, working with the Department
15 of Motor Vehicles, to inform taxpayers with
16 past due tax liabilities of over \$10,000 that
17 failure to resolve their outstanding
18 liabilities, whether through payment in full
19 or by entering into an installment payment
20 plan, would result in the suspension of their
21 driver's license. Taxpayers were given 60
22 days by which to respond to the notice.
23 Taxpayers who fail to take steps to resolve
24 their debt are referred to DMV for

1 suspension.

2 To date, the department has notified
3 over 17,000 residents regarding the
4 consequences for failing to settle their
5 past-due liabilities. Of those, 13,000 are
6 past the 60-day grace period and are eligible
7 for referral to DMV for suspension. Of
8 those, over 5700, or 42 percent, have taken
9 positive steps towards resolving their
10 outstanding liability. As a result,
11 collection of past-due liabilities to date
12 has totaled nearly \$48 million on a state and
13 local basis, exceeding initial estimates.

14 The past few years have presented
15 challenges and opportunities. I believe that
16 together we have met those challenges head
17 on, and we have taken advantage of the
18 opportunities to change the direction of this
19 state for the better. To that end, Governor
20 Cuomo's Executive Budget builds on those
21 successes and will continue to create a
22 brighter future for all New Yorkers.

23 I would be pleased to address any
24 questions that you might have.

1 CHAIRMAN FARRELL: Thank you very
2 much.

3 CHAIRMAN DeFRANCISCO: Senator
4 Bonacic.

5 SENATOR BONACIC: Mr. Mattox, first of
6 all, thank you for being here today.

7 COMMISSIONER MATTOX: Good morning.

8 SENATOR BONACIC: I have a couple of
9 quick questions and also comments.

10 You talked about the manufacturer tax
11 credit. But I can tell you that the people
12 in Orange County are very upset because that
13 tax credit does not apply to them because
14 they've been designated downstate. So on one
15 hand, we have the bite of the MTA tax, which
16 is taxation without transportation for the
17 people in Orange County. And on the other
18 side, it's a disincentive for Orange County
19 because they did not get credit for the
20 manufacturer's tax credit. So that's
21 observation number one.

22 My second point; I'd like to ask you
23 your opinion on this. Three years in a row
24 the Senate passed what we call the Public

1 Integrity Act, which had to do with food
2 stamps and trying to hold those recipients
3 accountable who use their cash allotment from
4 the benefit card to commit fraud and waste
5 and not for the purpose it was intended.
6 Now, the federal government has told us
7 February 22nd is the deadline; if it is
8 passed by the Assembly, we lose \$122 million.

9 Now, the Governor, as a responsible
10 adult, has put that language in the budget.
11 My question to you, do you have an opinion,
12 if we pass that deadline of February 22nd
13 where the Assembly refuses to act, do you
14 still think we'll get that \$122 million if we
15 pass the budget on time, with the language in
16 the budget to do what the Assembly did not
17 do? I'd like your opinion.

18 COMMISSIONER MATTOX: Senator, I do
19 not know the answer, nor do I have an opinion
20 on that topic. That's completely outside the
21 jurisdiction of the Department of Taxation
22 and Finance.

23 SENATOR BONACIC: Okay. Then my last
24 point, a lot of the Governor's promises of

1 property tax reduction is based on the
2 premise that it's keeping state spending
3 below the 2 percent cap and that there will
4 be sufficient monies. So that was the reason
5 I asked first about the fed fund issue of
6 \$122 million.

7 And now to do the pre-K, there's a
8 difference of opinion of what that's going to
9 cost. Mayor de Blasio's projections are a
10 lot higher than what the Governor's
11 projections are for the first year to pay for
12 pre-K if we do it statewide.

13 Now, do you have an opinion, based on
14 your forecast of revenues and expenditures,
15 whether there will be sufficient revenues
16 coming in that will pay for the promise of
17 these property tax reductions that are part
18 of the budget plan? Do you have an opinion?

19 COMMISSIONER MATTOX: Well, I hate to
20 go 0 for 2, Senator, but unfortunately I
21 don't. While we have a very talented policy
22 shop, we have not been involved in modeling
23 the funding estimates for pre-K. So I do not
24 have an opinion on that topic.

1 SENATOR BONACIC: Well -- and I don't
2 mean to be disrespectful, but do you have
3 economists that you work with or experts to
4 supplement your department that make economic
5 forecasts of anticipated revenues and
6 expenses? And has anybody weighed in on --
7 relating to the question I've asked you? And
8 if you don't have the answer today, could you
9 maybe get back to us if you find sufficient
10 information?

11 COMMISSIONER MATTOX: Sure, I'd be
12 happy to follow up and try to be of
13 assistance in terms of developing a clearer
14 understanding of the financing.

15 We certainly do have economists within
16 the department. But again, to your specific
17 question, we have not been involved in that
18 modeling. But we'd be more than happy to
19 help.

20 SENATOR BONACIC: Okay. Thank you
21 very much.

22 CHAIRMAN FARRELL: Questions?

23 CHAIRMAN DeFRANCISCO: Senator Savino.

24 SENATOR SAVINO: First, thank you,

1 Chairman DeFrancisco.

2 Thank you, Commissioner, for coming.

3 When the Governor released his budget
4 and we had the opportunity to go through it,
5 a significant part of his budget is dedicated
6 to reforming some of our corporate tax
7 structures. And so I was curious that your
8 testimony today really doesn't focus on the
9 broad proposals that the Governor has. I was
10 hoping to hear more detail. I actually
11 received more detail this morning reading the
12 *New York Times* when I read Thomas Kaplan's
13 column.

14 So I'm curious as to some of the
15 changes that the Governor proposes,
16 particularly his corporate tax reform,
17 changing things from the three-way compliance
18 to a single source. How does that affect the
19 state budget? Is there a way that we could
20 reform taxes in this state for corporations
21 in a way that doesn't hit the bottom line to
22 the tune of I think it's close to
23 \$346 million? Can you explain why we can't
24 do both and come up with a revenue-neutral

1 proposal?

2 COMMISSIONER MATTOX: Well, first of
3 all, I was trying to be brief in my remarks
4 so that you all had --

5 SENATOR SAVINO: Too brief.

6 COMMISSIONER MATTOX: -- that you all
7 had plenty of time for Q&A. I assumed we
8 would get into the details of the proposal,
9 and I'm happy to do that now.

10 Perhaps the most important place to
11 start is that frankly there's an argument
12 that these reforms should have occurred
13 14 years ago. The repeal of Glass-Steagall
14 in 1999 fundamentally changed the landscape
15 in terms of financial services' taxable
16 entities, and we've been operating on
17 temporary provisions since that time.

18 So to the extent that we now have an
19 opportunity to simplify and modernize the tax
20 code, that's good for all New Yorkers.
21 Because the goal of tax policy generally
22 should be simplicity and fairness, and our
23 objective within the context of tax
24 administration is to be efficient.

1 So the proposals contain quite a bit
2 of reforms, as you alluded to. The reduction
3 in the rate from 7.1 to 6.5 percent is just
4 part of it. Arguably, what's the most
5 important part of the reform proposal is that
6 it will make compliance easier. As a rule,
7 this is an incredibly complex space. What
8 comes in on the returns for many of the
9 participants in the articles that are under
10 reform now often understates the final tax,
11 or on audit we can end up at 2 or 3X the tax
12 liability that came in on the return.

13 So we're looking for opportunities to
14 provide certainty and clarity to support
15 compliance and greater efficiencies in terms
16 of the review process that we conduct through
17 the audit.

18 SENATOR SAVINO: You know, clarity and
19 certainty is something that I think we all
20 share, we would like to see that. There's no
21 doubt that our tax codes in New York State
22 are byzantine at best, and so reforming them
23 is I think a goal that we all share.

24 One of the concerns, though, that I

1 think we have is that this proposal, this
2 three factor to a single sales factor, is
3 going to disproportionately benefit the
4 banking industry to the detriment of the
5 state treasury. And when we have so many
6 other tax proposals that the Governor is
7 putting forward, how do we pay for them if
8 we're going to take a sizeable chunk out of
9 the state budget to benefit an industry that
10 quite frankly doesn't need it? The banking
11 industry has done fairly well, even through
12 the economic downturn, compared to the
13 manufacturing sector and other parts of the
14 state.

15 So I'm concerned that, you know, what
16 could be described as a giveaway to an
17 industry that doesn't need it is going to
18 disproportionately take away from our
19 commitment to perhaps if we support the
20 manufacturing tax credit. START-UP NY, we
21 still don't know how much that's going to
22 cost the State of New York.

23 And so I think perhaps we should
24 rethink the idea of benefiting the banking

1 industry when we have a better use for some
2 of that tax money that we could, you know,
3 spur maybe manufacturing in Orange County.
4 You know, Senator Bonacic is not incorrect.
5 We're concerned about the manufacturing in
6 the City of New York.

7 The idea that all of the money has to
8 go to upstate -- and this is not to take away
9 from upstate. We have an obligation to do
10 something about the upstate economy. But
11 manufacturing can take place all over the
12 state. And if we're giving money away to an
13 industry that's not leaving, that has done
14 disproportionately well compared to everyone
15 else, that shortchanges the state treasury in
16 its commitment to other industries that
17 really do need the economic incentive.

18 So I would really hope that we might
19 have a bigger discussion about this issue and
20 what's really the right thing to do with
21 respect to the banking industry.

22 Thank you.

23 CHAIRMAN FARRELL: Assemblyman Oaks.

24 ASSEMBLYMAN OAKS: Hi, Commissioner.

1 COMMISSIONER MATTOX: Good morning.

2 ASSEMBLYMAN OAKS: Just to follow up
3 on Senator Savino's comments, with the
4 changes in the corporate tax do we have a
5 sense -- she's suggesting that the banks are
6 big winners in this. Do we have a sense of
7 who, under the changes, will be winners and
8 losers, if there are to be in this?

9 COMMISSIONER MATTOX: Well, there
10 seems to be a trend in the press and
11 elsewhere to try to identify winners and
12 losers, and with respect to the banks, label
13 them as winners.

14 What I would suggest is that New York
15 State as a whole benefits whenever we can
16 simplify and modernize our tax code to
17 support economic activity across the state.
18 Perhaps one reason why there is focus on the
19 banks is that effectively what this proposal
20 does is merges Article 32, which focused on
21 banks, into the 9A provisions. So we're
22 combining or absorbing, if you will, banks
23 into our general corporate tax.

24 That would be consistent with how the

1 federal government views it. The federal
2 government does not draw a distinction
3 between banks and other commercial entities,
4 and neither do many other states.

5 The second point is that as part of
6 the proposal -- which also somehow hasn't
7 made it into the popular dialogue now -- is
8 that there are elements of credits and other
9 aspects of the current 32 provisions that are
10 going away. So, for example, financial
11 services are now eligible for ITC credits,
12 which will no longer be the case when they're
13 merged into this new article.

14 So I think we need to focus and have
15 as balanced a view as possible on the overall
16 benefits of the simplification. And I would
17 suggest that to the extent that we're trying
18 to make New York open for business, as I
19 think the Governor has clearly articulated
20 over the course of the last three years, it's
21 going to be difficult to achieve that if you
22 don't have an underlying tax policy in place
23 to support that activity.

24 ASSEMBLYMAN OAKS: Moving to the issue

1 of the upstate manufacturers credit, the
2 Tax Relief Commission had recommended a rate
3 of 2.5, I believe, percent, and then in the
4 Governor's proposal it was to wipe it out for
5 upstate. Both of those had figures of a
6 similar amount. The impact of it I think was
7 \$24 million.

8 And I'm just trying to balance how it
9 was figured at 24 from the Tax Commission's
10 proposal originally at 2.5, and now putting
11 it down to zero, how we stay at 24.

12 COMMISSIONER MATTOX: Well, as you
13 know, we -- and I had the pleasure of serving
14 on the Tax Reform and Fairness Commission.
15 We were focused on putting together a set of
16 recommendations for the Governor to consider.
17 And I emphasize recommendations. So we
18 certainly were aware of the factor that the
19 Governor would be advised by our work but
20 certainly wasn't bound by it.

21 So as you've seen in the Executive
22 Budget, some changes have been made. In
23 certain areas very little has changed from
24 the recommendations to the budget. Corporate

1 reform is an example of that, as is the
2 raising of the filing threshold for
3 individuals. And in other areas some changes
4 were made.

5 ASSEMBLYMAN OAKS: The \$24 million,
6 though, impact, the tax commission suggested
7 it would be around \$24 million for 2.5. Then
8 the Governor is estimating \$24 million not
9 having it at all. Do you think that should
10 be higher?

11 I'm trying to figure out how we stayed
12 at 24 million of impact but changed the
13 percentages -- or, you know, changed it from
14 2.5 down to zero in his proposal.

15 COMMISSIONER MATTOX: Well, there are
16 a lot of variables that go into these
17 reforms, so it would be difficult to carry
18 over directly without considering all of the
19 elements that were part of the proposal. But
20 we're certainly comfortable with the
21 estimates that have been developed as part of
22 the budget.

23 ASSEMBLYMAN OAKS: My last question
24 just has to do -- I know last year you

1 probably are glad that tax return season got
2 over. I know it was a challenge for your
3 department and the contract that you had.

4 Within your budget I saw it was
5 estimated \$8.3 million of overtime in your
6 department. How much of that was
7 attributable to the problems related with the
8 tax returns?

9 COMMISSIONER MATTOX: About \$6 million
10 of that total was related to overtime to
11 support our return processing activities.

12 I would note that this year, as I
13 tried to articulate in the testimony, we are
14 at a very different place. The fact that we
15 now have, via our website, the ability to
16 offer 85 percent of New York individual
17 taxpayers the ability to file their taxes for
18 free is an important development.

19 ASSEMBLYMAN OAKS: And just one more
20 follow-up on that. Do you have a sense of
21 how much in interest we paid out on the late
22 returns that we sent to people? I know it
23 caused some overtime and other problems. But
24 we also, because of the length of time, paid

1 some interest out. Do we have any sense on
2 that on those returns?

3 COMMISSIONER MATTOX: Well, I'd be
4 happy to supply the committees with some
5 details around the expenses. I would note
6 that, as was indicated in several press
7 releases, the vendor is responsible for the
8 department's costs. So taxpayers will be
9 held harmless by the fact that we had to step
10 in and support the processing of those
11 returns.

12 ASSEMBLYMAN OAKS: Well, I'm sure from
13 your department and certainly from my office
14 and many of our legislative offices who
15 handled some of those calls, hopefully this
16 year we will be on line for having a much
17 more smooth process. Thank you.

18 COMMISSIONER MATTOX: Well, please
19 encourage your constituents to file
20 electronically and to visit our website.

21 CHAIRMAN FARRELL: Thank you.

22 We've been joined by Assemblyman
23 Zebrowski and Assemblywoman Sandy Galef.

24 Senator?

1 CHAIRMAN DeFRANCISCO: Senator Smith.

2 SENATOR SMITH: Thank you,

3 Mr. Chairman.

4 Good morning, Commissioner.

5 COMMISSIONER MATTOX: Good morning.

6 SENATOR SMITH: Thank you for your
7 testimony.

8 The first matter I just want to, I
9 guess, underscore it because of the
10 importance of it, and clarity, if there needs
11 to be any. Your testimony says that close to
12 about 90 percent of the residents that were
13 eligible for STAR have applied, and that as
14 of March 7th those who do not apply will
15 start to receive the notices or they will be
16 pulled off the list of exemptions, I should
17 say.

18 But the critical thing is you said the
19 Governor now has a piece of legislation that
20 will reinstate them. Is that within the
21 year, or is there a time frame?

22 COMMISSIONER MATTOX: Senator, there
23 is a provision in the enabling statute that
24 allows a one-year time period for homeowners

1 that missed the calendar 2013 year-end
2 deadline for registering to receive their
3 exemption if they're eligible. So the
4 process remains essentially the same.

5 So between now and March the 7th we
6 would encourage any homeowner who received
7 Basic STAR previously to go to our website or
8 call us at our taxpayer call center to go
9 through the registration process. All they
10 need to do is explain why they missed that
11 deadline, and we will consider that
12 application. We want to make sure that all
13 homeowners who are eligible receive the
14 exemption. But time is of the essence at
15 this stage.

16 SENATOR SMITH: Okay. Thank you.

17 The START-UP NY program, which I think
18 is an excellent program. And I think it's
19 probably one of the best that we have at this
20 point. I'm looking to see how the global
21 initiative works in conjunction with it.

22 And I don't even know if this is
23 possible, but is there any incentive to the
24 businesses that may locate themselves within

1 that zone to sort of pass on some portion of
2 the benefit they may get from being in there?
3 I know that there was something tone with
4 sort of the excise tax in the
5 telecommunication part, that they're allowed
6 that credit refund, they're filed toward the
7 end.

8 Is there anything similar to that for
9 those businesses that locate themselves in
10 there that will benefit from all those tax
11 exemptions, which I think is great, to pass
12 some portion of that on to the retailer or
13 the manufacturer or whoever it is that is on
14 the end of their product or service?

15 COMMISSIONER MATTOX: Well, there are
16 two areas of the budget where real property
17 tax relief is directly focused on commercial
18 entities. One would be START-UP NY, of
19 course, where there is a complete exemption
20 from taxes, including property taxes. The
21 other would be for manufacturers, who would
22 in fact be eligible for a credit on their
23 real property taxes.

24 But the focus has been, as you point

1 out, on the STAR program and on individual
2 homeowners. And so that's been the focus of
3 the registration effort.

4 SENATOR SMITH: Okay. And my last
5 question, I believe in the budget there is a
6 provision for the audit collection and
7 enforcement department to -- for those who
8 get professional licenses, they have a right
9 to allowed withhold that license if they have
10 a tax burden.

11 My only question is, is there a
12 threshold for that amount? I mean, if I'm an
13 attorney and I owe you \$500, does that mean
14 my license -- or if I'm a real estate
15 salesperson, if I owe you \$50, does that
16 mean -- or is there a threshold of \$5,000,
17 \$10,000, a time period?

18 COMMISSIONER MATTOX: Well, perhaps a
19 good overview point here is that licenses,
20 much like my comments with respect to
21 driver's licenses, I would certainly be
22 prepared to argue is a privilege and not a
23 right.

24 And so the ability to now have

1 tax-clearance requirements in place for a
2 broad range of professional licenses is a
3 logical extension of what we've done with
4 respect to the driver's license program.
5 However, the thresholds will be lower but
6 will certainly be reasonable.

7 SENATOR SMITH: You don't have an idea
8 what they are? I mean, similar to your
9 driver's license, if you owe a certain amount
10 on parking tickets, you know, that might put
11 you at that point.

12 COMMISSIONER MATTOX: Well, for the
13 driver's licenses the threshold was \$10,000
14 of fixed and final liability. The
15 tax-clearance piece, I think it would be fair
16 to say that there's still some room to
17 potentially talk about where the threshold
18 would be, but it's clearly going to be lower.

19 SENATOR SMITH: Okay. All right.
20 Thank you very much, Commissioner. Thank
21 you, Mr. Chairman.

22 CHAIRMAN DeFRANCISCO: We're joined by
23 Senators O'Mara and Valesky.

24 CHAIRMAN FARRELL: We have next

1 Assemblywoman Malliotakis.

2 ASSEMBLYWOMAN MALLIOTAKIS: Good
3 morning.

4 COMMISSIONER MATTOX: Good morning.

5 ASSEMBLYWOMAN MALLIOTAKIS: Thank you
6 for being here.

7 I just had a few brief comments and
8 then a question as well.

9 I just want to echo what my colleagues
10 said about the manufacturer break for
11 upstate. I represent New York City, and I
12 join any colleagues in saying that we believe
13 those within the MTA territory should also
14 receive the benefit as well. I don't think
15 it's fair to have a certain break for
16 manufacturers upstate and not do the same
17 thing for everyone in the State of New York.

18 So if you could please make those
19 recommendations when you go back and meet
20 with the Governor, that would be great.

21 I also want to just ask a question, if
22 you could just explain for everyone,
23 regarding property taxes and how the
24 Governor's proposal can possibly affect

1 New York City. I know that he has proposed
2 that they be included in the circuit breaker.
3 Can you just explain exactly how and under
4 what terms New York City could get a tax cap
5 or qualify for the circuit breaker?

6 COMMISSIONER MATTOX: Well, the
7 circuit breaker proposal really focuses on
8 providing real property relief for homeowners
9 across the board and as you know, looks at
10 income as the principal determination of
11 whether relief is appropriate.

12 So, much as was the case with STAR
13 registration, the focus on homeowners is
14 statewide. And with respect to providing
15 that relief, I think it would be fair to say
16 that given the fact, as the Governor pointed
17 out in the State of the State and elsewhere,
18 that real property-related taxes are the
19 single largest burden on New Yorkers -- in
20 fact, it exceeds the income tax -- it's an
21 important area to provide relief.

22 ASSEMBLYWOMAN MALLIOTAKIS: Well, I
23 understand -- you know, we both know that
24 New York City controls its own fate when it

1 comes to property taxes. But can you
2 explain -- as a New York City legislator who
3 is in the Legislature, I would like to just
4 be able to make those arguments when we go
5 back home to our city government. So what
6 can we say needs to be done to ensure that
7 New York City is included in the circuit
8 breaker?

9 COMMISSIONER MATTOX: Well, the
10 proposals don't change New York's
11 jurisdiction over its property taxes. So
12 New York City will continue to have the
13 ability to set its own policy, as it does
14 now, with respect to assessment methodology,
15 frequency of reassessment. That's not going
16 to change.

17 ASSEMBLYWOMAN MALLIOTAKIS: But in
18 terms of the circuit breaker?

19 COMMISSIONER MATTOX: In terms of the
20 circuit breaker, it still wouldn't change. I
21 mean, the City will be able to control its
22 policies with respect to property taxes.

23 ASSEMBLYWOMAN MALLIOTAKIS: Okay. I'm
24 just going to move on to one last thing, and

1 that is a report that came out -- a couple of
2 reports -- last month, or actually it was a
3 couple of weeks ago, talking about Superstorm
4 Sandy and how the sales tax revenue as it
5 relates to people having to make replacements
6 or buying materials, replacing vehicles, from
7 Superstorm Sandy has brought in a windfall of
8 about 5.2 percent for 2013 here in the state.

9 First of all, do you have a breakdown
10 of that revenue, of exactly, perhaps, what
11 counties contributed -- you would have the
12 breakdown per county, but maybe -- is there
13 any plan by the Governor, and we have
14 proposed this locally, and we have tremendous
15 bipartisan support also from Senators,
16 Assemblymembers, many of us that are up here
17 today have joined together in calling for the
18 revenue that was generated for sales tax for
19 especially those victims who had to replace
20 their vehicles, the sales tax really is a
21 windfall and the state shouldn't be making
22 money off of that.

23 Is there any plan or have there been
24 any discussions about possibly returning

1 those funds to the victims?

2 COMMISSIONER MATTOX: Well, we would
3 certainly be happy to share with you and the
4 committees the monthly sales reports that the
5 department publishes. In fact, several of
6 them are available on our website.

7 There's no question that there has
8 been an uptick in sales tax receipts from
9 motor vehicles. There have been for certain
10 categories of food provision as well as
11 retailing generally.

12 So I think the first point is that the
13 uptick that we've seen in the collection of
14 sales tax is broader than just what was
15 related to economic activity that could be
16 directly attributable to Sandy.

17 ASSEMBLYWOMAN MALLIOTAKIS: Okay. So
18 I'm going to ask again, if the Governor or
19 anyone on the team has discussed any
20 possibility of perhaps returning the windfall
21 for those Sandy victims who have had to
22 replace vehicles due to the superstorm --
23 there was no choice, they would not be
24 purchasing a vehicle otherwise, so you can't

1 really count this as regular income coming
2 into the state. This is windfall money.

3 Have there been any discussions?
4 Because the Legislature, many members have
5 been proposing it, have had press
6 conferences, have been talking about it. It
7 was even put forth in I think budget
8 resolutions last year. Has there been any
9 discussion about returning the money that the
10 state has made as a windfall for these
11 replacement vehicles to the Sandy victims?

12 COMMISSIONER MATTOX: Perhaps you
13 could help me in terms of defining
14 "windfall." What is your -- what is the
15 definition of "windfall"?

16 ASSEMBLYWOMAN MALLIOTAKIS: Well, what
17 I would say is when the storm hit, we had
18 many victims who lost their vehicles. They
19 had to replace those vehicles and had to pay
20 sales tax as a result. That is not money
21 that the state was anticipating; it really is
22 a windfall in the budget. And these people
23 were forced to purchase these vehicles as a
24 replacement by an act of God.

1 And so my question is, you know, we've
2 been pushing to try to reimburse them for
3 that. Even the DMV has not even been able to
4 waive the registration fee for these people
5 who have suffered so much and are just simply
6 trying to replace their vehicles. So we
7 would like to see that perhaps being pushed
8 from your end as well if we can get some
9 support on that.

10 COMMISSIONER MATTOX: Well, the short
11 answer to your question would be no.

12 But we -- as I tried to indicate, if
13 you take a look, if you break down the sales
14 tax receipts across all of the counties
15 across a multiyear period, the uptick in
16 receipts that you will see is broader than
17 just activity that you can directly attribute
18 to Superstorm Sandy.

19 ASSEMBLYWOMAN MALLIOTAKIS: Sure.

20 COMMISSIONER MATTOX: So that's why I
21 asked you for the definition. Because it
22 would be very difficult, I think, to argue
23 that of the 5-plus-percent increase that you
24 essentially can say that even the majority of

1. it was directly related.

2. But we would be happy to work with
3. your office to provide some analytics around
4. that.

5. ASSEMBLYWOMAN MALLIOTAKIS: I would
6. appreciate that. I would like to get those
7. numbers and try to work that with you.

8. Thank you.

9. CHAIRMAN DeFRANCISCO: Senator O'Mara.

10. SENATOR O'MARA: Thank you. Thank
11. you, Commissioner, for being here this
12. morning.

13. COMMISSIONER MATTOX: Good morning.

14. SENATOR O'MARA: I have a couple of
15. questions regarding the manufacturing piece
16. of the budget, in particular the -- I guess
17. the qualified manufacturer definition that's
18. come up.

19. And it seems to me that we're greatly
20. limiting the number of manufacturers that
21. could qualify under that for the income tax
22. benefits by the new definition. And if we
23. could just kind of walk through the new
24. definition that a manufacturer has to have

1 2500 or more employees to be able to qualify
2 for this and have no business operations
3 whatsoever within the MTA region? Is that
4 accurate?

5 COMMISSIONER MATTOX: Well, I think in
6 general perhaps a good place to start with
7 the proposal is that it has been subject to
8 some change. I mean, as you know, at one
9 stage agriculture and mining was excluded.
10 There was a reconsideration of that. So I
11 think it would be fair to say that there are
12 ongoing discussions around the specific
13 elements of the program.

14 Our job at the department is to
15 administer the policy that you and the
16 Governor enact. So we don't typically take a
17 point of view in terms of who's in, who's
18 out, certainly not unless asked. And it
19 really is your prerogative and the
20 prerogative of the Governor, from a policy
21 perspective, to determine the definitions.

22 SENATOR O'MARA: But the definition as
23 it's written right now, would you agree that
24 that would exclude manufacturers with less

1 than 2500 employees?

2 COMMISSIONER MATTOX: Well, there are
3 clearly cutoffs now. So this is -- there's
4 always consideration of what we can afford to
5 do.

6 There are also standard definitions
7 that are used to describe what is
8 manufacturing activity and how do you think
9 about the extent to which that activity is
10 making a contribution to the state in terms
11 of tax receipts generated, employment,
12 et cetera. So there are always those
13 considerations.

14 SENATOR O'MARA: In regards to having
15 any operations as well in the MTA region, I
16 have an extremely large manufacturer in my
17 district in the Southern Tier. They would
18 meet, I think, the employment thresholds, but
19 I think they have a New York City office with
20 four or five people in it. And that's going
21 to exclude them from this benefit because of
22 having some activity within New York City?

23 COMMISSIONER MATTOX: Well, it
24 certainly could. Again, it would not be the

1 department's call to determine where that
2 line is ultimately set. That is within your
3 jurisdiction and the Governor's.

4 But I would point out that there are
5 always going to be issues, particularly when
6 you think about the cost of the programs in
7 terms of where you set the line.

8 SENATOR O'MARA: The manufacturing
9 definition, as I've read it as well, would
10 also exclude ski areas from the manufacture
11 of snow for that, because it's considered
12 reusing it for their own purposes. I guess I
13 would consider it's being manufactured for
14 the use of their customers to ski down,
15 otherwise they're not going to have any
16 customers. And certainly I'm going to look
17 for some assistance in that regard for our
18 ski resorts in New York that are vitally
19 important and somewhat at a competitive
20 disadvantage to the state-owned facilities
21 that we have in Gore and Whiteface. So
22 that's something of concern to me.

23 There's another change in the budget
24 with regard to fulfillment services and taxes

1 on foreign corporations and partnerships.

2 Are you familiar with that?

3 COMMISSIONER MATTOX: Yes, sir.

4 SENATOR O'MARA: Because I've had
5 legislation for a couple of years, Senate
6 Bill 3473, that would create tax equity
7 between corporations, LLCs, and partnerships
8 that are foreign-based, out of the state,
9 that are using fulfillment services in
10 New York.

11 However, my legislation does just the
12 opposite of the way I read the budget. And
13 since there's been an exemption in the law
14 since the 1990s that excludes foreign
15 corporations' income from New York State
16 taxes if they're using a New York State
17 fulfillment service in partnership with the
18 owner of that fulfillment service, but LLCs
19 and partnerships were taxed or considered to
20 be taxed -- and now my legislation was to
21 treat LLCs and partnerships as corporations
22 have been treated. Now, the budget language
23 seems now is that you're going to the
24 opposite and you're taking that exemption

1 away from corporations.

2 My concern is that if we are truly
3 open for business in New York, we want to be
4 open to businesses from outside the state
5 utilizing our businesses in the state. And
6 this change in that fulfillment services
7 language seems to be in direct opposition to
8 fostering new business growth in this state.
9 Do you know the rationale behind that change?

10 COMMISSIONER MATTOX: I would not be
11 prepared to get into the details of that now.

12 What I can say is that there are
13 certainly aspects of the budget, and
14 specifically within corporate reform, that
15 make important changes with respect to the
16 activities of international entities.

17 So there's a what's commonly referred
18 to as a "water's edge provision" in the
19 corporate reform package which certainly
20 provides some benefits and greater tax
21 clarity for entities that have activities
22 overseas. So there are some aspects of the
23 budget that do provide relief.

24 SENATOR O'MARA: And then finally, in

1 regards to manufacturers again and the
2 20 percent property tax exemption, is my
3 understanding correct that the definition of
4 manufacturers that I spoke to you at the
5 outset about is not the same definition for
6 the property tax credits? In other words,
7 upstate manufacturers of any size would be
8 eligible to get that? Or actually I don't
9 think there's even a limit on the MTA region
10 with regard to that, correct?

11 COMMISSIONER MATTOX: But again,
12 that's a policy call. We would not have made
13 that determination. So the budget, which
14 you're obviously reviewing now, the process
15 that we're in is looking at how those
16 definitions are set, and for consistency.

17 But the ultimate call in terms of
18 whether they're exactly the same for all
19 elements of relief or benefit is a policy
20 call, not an administrative call.

21 SENATOR O'MARA: Thank you.

22 CHAIRMAN FARRELL: Thank you. We've
23 been joined by Assemblyman Braunstein.

24 Senator?

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CHAIRMAN DeFRANCISCO: Senator
Krueger.

SENATOR KRUEGER: Good morning.

COMMISSIONER MATTOX: Good morning.

SENATOR KRUEGER: I have quite a few
questions, so I may have to come back around
a couple of times.

COMMISSIONER MATTOX: Okay.

SENATOR KRUEGER: Let's start with the
circuit breaker. So there's a cap compliance
requirement after the first year involving
the local governments meeting these
standards. And as the Governor noted in his
State of the State, there are over 10,000
jurisdictions of government in the state.
Many New Yorkers live in communities with
overlapping jurisdictions.

So if I'm a homeowner who lives in a
cap-compliant municipality but my school
district is not cap-compliant, what happens
to my eligibility for a circuit breaker?

COMMISSIONER MATTOX: Well, there are
several technical aspects like that that we
will have to work through depending on what

1 the final form of the budget and the
2 legislation takes.

3 But this is clearly a very complicated
4 space, because of the fragmentation of taxing
5 entities. We've also got issues in terms of
6 the actual timing of when those taxes are
7 set. So there's no question that there are
8 going to be a number of very significant
9 administrative challenges depending on the
10 final form of the law.

11 SENATOR KRUEGER: So if we assume that
12 exactly the proposal the Governor put in his
13 budget becomes the law, you don't have those
14 answers yet about how you'll calculate this?

15 COMMISSIONER MATTOX: No, we're still
16 working through. I mean, these are
17 nontrivial exercises in terms of figuring out
18 how to make the mechanics work underneath
19 them.

20 So no, I would not say that we've got
21 a final view on how the legislation would be
22 operationalized, if you will. That's
23 something that we typically work on for weeks
24 and months long after legislation or the

1 budget is finalized and passed.

2 SENATOR KRUEGER: So I'm confused. If
3 I'm a homeowner who thinks I'm eligible but
4 isn't really sure whether I'm eligible, will
5 it be the Department of Taxation who makes
6 the determination whether the municipality is
7 compliant? That's your job?

8 COMMISSIONER MATTOX: It will not be
9 our job to determine whether the municipality
10 is compliant. It will -- we believe it is
11 our obligation to try to construct tools that
12 would allow, once that determination is made,
13 that would allow homeowners to come to our
14 website and essentially do look-ups based on
15 where their property is located and the
16 specific tax that's involved.

17 Because of the complexity that I
18 mentioned earlier, one of the things that
19 we're spending a lot of time on now is how to
20 make this easy for homeowners. And so our
21 thinking now is that we would like to
22 leverage the website to do that and to
23 encourage homeowners to see us with any
24 questions they would have about their

1 eligibility.

2 SENATOR KRUEGER: So if I understand
3 it, the homeowner will, when they go to do
4 their taxes, there will be some section added
5 to the forms to fill out for the circuit
6 breaker eligibility. They'll then go to a
7 website to try to discover whether they're
8 living in compliant municipalities or taxing
9 districts, and then they -- can it be a
10 prorated credit if District 1 is compliant
11 but District 2 -- and I live in both -- is
12 not compliant?

13 COMMISSIONER MATTOX: That could be
14 the case. Again, I wouldn't be prepared to
15 present to you a final view on how the
16 operations are going to work here.

17 What I can provide you -- and I hope
18 it would be some comfort -- with respect to
19 utilizing the website, I had mentioned in my
20 testimony that 2.4 million homeowners had
21 registered for the STAR program. Eighty-five
22 percent of them did so online.

23 So I think there's a good case to be
24 made that New Yorkers are comfortable, in

1 fact, using online or website-based tools to
2 do that. And again, our current thinking is
3 that that's what we would try to offer
4 New Yorkers in terms of working out their
5 eligibility.

6 SENATOR KRUEGER: Would I be correct
7 to assume that my eligibility as a homeowner
8 might vary year to year depending on which of
9 my districts met that cap or didn't meet that
10 cap?

11 COMMISSIONER MATTOX: It could. I
12 mean, as you know, the number of
13 jurisdictions that are involved here, it
14 isn't as simple as -- for those of you that
15 own a home here in New York know, when you
16 get that tax bill, it can be several lines
17 long, everything from water districts to
18 school districts to local, et cetera.

19 So I do think we have some work to do
20 in terms of figuring out to how to make this
21 a simple process for homeowners who are
22 eligible to get the credits.

23 SENATOR KRUEGER: I would agree we
24 have work to do if we could make this work.

1 What's your estimate of the cost to
2 the state of the creation of this tax credit
3 when, I guess, fully implemented, which I
4 think is technically three years from now, in
5 the Governor's proposal?

6 COMMISSIONER MATTOX: Well, there is a
7 multiyear timeline associated with the
8 proposals.

9 With respect to the property tax
10 freeze, if you will, for the compliance, the
11 current estimates are about \$900 million over
12 the course of the two years of the program.

13 SENATOR KRUEGER: That's combining
14 with the freeze and the --

15 COMMISSIONER MATTOX: Yes.

16 SENATOR KRUEGER: But is that separate
17 from the cost of the circuit breaker?

18 COMMISSIONER MATTOX: That is separate
19 from the circuit breaker. And I'd be happy
20 to provide you or the committees with some
21 additional detail on the breakouts, if that
22 would be helpful.

23 SENATOR KRUEGER: Okay. So you said
24 approximately \$900 million for the freeze

1 proposal.

2 COMMISSIONER MATTOX: That's correct.

3 SENATOR KRUEGER: But you don't have a
4 projected cost of the circuit breaker at this
5 time?

6 COMMISSIONER MATTOX: We do have
7 estimates of that. And again, I'd be happy
8 to share that with you. I don't have the
9 number --

10 SENATOR KRUEGER: But you don't have
11 any number for me today?

12 COMMISSIONER MATTOX: I don't have the
13 number with me, no.

14 SENATOR KRUEGER: I think I'll need a
15 written response to all these questions as we
16 go on.

17 COMMISSIONER MATTOX: Sure.

18 SENATOR KRUEGER: Since you came up
19 with the \$900 million for the freeze, any
20 estimate of how many of the districts do you
21 assume qualify for the state to end up with
22 the \$900 million projection on the tax
23 freeze?

24 COMMISSIONER MATTOX: I wouldn't have

1 the ability to look forward. The
2 Comptroller, of course, has put out some
3 reports with respect to the number of
4 municipalities and jurisdictions that have
5 exceeded the cap. But I would have no way of
6 knowing, going forward, whether that number
7 will go up or down.

8 SENATOR KRUEGER: My time is up, at
9 least for a first round. I'll come back.
10 Thank you.

11 CHAIRMAN FARRELL: Thank you.
12 Assemblyman?

13 ASSEMBLYMAN OAKS: Yes, we've been
14 joined by Assemblyman Blankenbush.

15 CHAIRMAN FARRELL: Assemblywoman Galef
16 to question.

17 ASSEMBLYWOMAN GALEF: Just some
18 follow-up on that.

19 So if we do pass the circuit breaker
20 in the budget, it will be based on the 2014
21 calendar year, the income tax calendar year?

22 COMMISSIONER MATTOX: Mm-hmm.

23 ASSEMBLYWOMAN GALEF: So we would
24 start to see you having to roll out something

1 by December, I guess, of this year.

2 COMMISSIONER MATTOX: Well, we've
3 certainly worked on even shorter time frames.
4 You will recall that last year we only had a
5 couple of months to get STAR registration up.
6 So it could be that quick, yes.

7 ASSEMBLYWOMAN GALEF: Okay. Let me
8 ask you about the tax freeze.

9 So where are you going to get all --
10 you're going to be in charge of the tax
11 freeze program and the checks that would go
12 out?

13 COMMISSIONER MATTOX: I'm not sure I'd
14 say we're in charge of it. We clearly are
15 going to be responsible for administering it.
16 And as I mentioned to the Senator, we see it
17 as our role in terms of supporting taxpayers
18 to provide the tools and the support is there
19 completing their returns as best we can.

20 So we intend to come up with a way of
21 making that relatively easy. We think we
22 accomplished that with STAR registration.
23 There are certainly other examples of where
24 very effective tool sets have been built, and

1 we expect that to be the case here as well.

2 ASSEMBLYWOMAN GALEF: With the tax
3 freeze for this year for the public, it will
4 be based on their school budget votes and
5 whether they've stayed within the tax cap as
6 well as city votes. When would the freeze
7 check go out? Because it would have to, you
8 know, go back that way. And I think the only
9 people captured -- there could be some
10 villages that might get captured in that, but
11 the majority of towns and counties have their
12 budgets later on. So who would be captured
13 in the first time round?

14 COMMISSIONER MATTOX: Well, as I
15 mentioned earlier, this is a remarkably
16 different space because you don't have a
17 coordinated or single timeline for these
18 taxes, and there are multiple considerations
19 in terms of participating in these programs.

20 I think one of the things that we
21 could do if the committees would be
22 interested is we could develop for you a
23 timeline that might make it a little bit
24 easier -- sometimes a picture does help -- as

1 best we can tell at this point as to how the
2 timing would work. And if that would be
3 useful, we'd be happy to do that.

4 ASSEMBLYWOMAN GALEF: That would
5 certainly be very useful to all of us.

6 Just one other question about the
7 assessments and monies in the budget for
8 revaluation of properties within our state.

9 Do we generally use up all the
10 allocations of up to \$5 per parcel and \$2 for
11 continued review? Do we usually use all of
12 our money, or could we try to encourage
13 people to reassess that haven't in a long
14 time by giving them a greater incentive?

15 COMMISSIONER MATTOX: Well, we work
16 hard to encourage municipalities to adopt the
17 best practices. And best practice would be
18 an assessment that's market value based, and
19 as you know, on a frequency of reassessment
20 that is within three to five years. Those
21 would be the national standards in terms of
22 best practices.

23 But there are certainly municipalities
24 that elect not to do that. There are monies

1 that remain because municipalities decide,
2 for whatever reason, not to do that. So that
3 is in fact the case.

4 ASSEMBLYWOMAN GALEF: Okay. Thank
5 you.

6 CHAIRMAN DeFRANCISCO: I have a few
7 questions, and I might as well follow up on
8 the area that we've just been talking about.

9 With respect to the combination of the
10 bank tax and the corporate tax, the concept
11 there was simplification of the tax
12 structure. Which during our hearings that we
13 had in the Senate throughout the state,
14 looking for tax relief proposals, broad-based
15 tax relief proposals, that came out loud and
16 clear in many instances.

17 It seems to me this new proposal on
18 property tax relief, if the municipality
19 stays within a percentage of growth,
20 2 percent, is a nightmare, an absolute
21 nightmare. And you have to administer it.
22 In fact, you've said many, many times that
23 "We'll have to look at it, we'll have to
24 figure it out, depending on the final

1 wording."

2 But whether people figure it out by
3 the explanation on the website or not, you're
4 going to have to audit millions of tax
5 returns. Do you have any more people in the
6 budget this year in the Tax Department than
7 you did last year?

8 COMMISSIONER MATTOX: We do not,
9 Senator.

10 CHAIRMAN DeFRANCISCO: All right, let
11 me ask you a real dumb question. Let's
12 suppose we want to give property tax relief
13 to communities and people and you want to
14 base it on a 2 percent cap, municipality cap.
15 You've got this structure with STAR which is
16 a major production anyway that you have to
17 deal with, and you've been dealing with.

18 Doesn't it make more sense, rather
19 than starting a new problem in administration
20 and to keep things simple, wouldn't it be a
21 better proposal that there be an additional
22 check or an additional credit on your
23 property taxes administered the same way as
24 STAR, in the event that your community stays

1 under the 2 percent?

2 And then you don't have all of this
3 other stuff that's going to confuse people.
4 You've already got a structure to give tax
5 relief. Isn't that eminently more sensible?

6 COMMISSIONER MATTOX: Well, there are
7 clearly different ways to do this. One of
8 the things that we talked about quite
9 regularly in the Tax Reform and Fairness
10 Commission is what are the alternatives for
11 essentially implementing policy or
12 operationalizing it.

13 But ultimately it isn't the
14 department's call, as you know. It is the --

15 CHAIRMAN DeFRANCISCO: No, no, I
16 understand that. You just administer, and I
17 appreciate that entirely. But let me ask it
18 this way.

19 The suggestion that I made, wouldn't
20 that be a a lot easier for your department to
21 administer that type of tax relief to
22 citizens of communities that are under the
23 cap than it would be to start this entire new
24 system?

1 COMMISSIONER MATTOX: Well, it can be.

2 Again, some of this --

3 CHAIRMAN DeFRANCISCO: It would be.

4 It would be. You know it would be.

5 (Laughter.)

6 COMMISSIONER MATTOX: Well, it depends

7 on --

8 CHAIRMAN DeFRANCISCO: Come on. Just

9 between the two of us.

10 (Laughter.)

11 COMMISSIONER MATTOX: I know what

12 you'd like to me to say here, but --

13 (Laughter.)

14 CHAIRMAN DeFRANCISCO: All right.

15 Okay. Okay.

16 COMMISSIONER MATTOX: But I can give

17 you some assurances, Mr. Chairman, that we do

18 ultimately -- and your point is an important

19 one with respect to enforcement -- we do

20 spend a lot of time thinking about how to be

21 as efficient as possible with respect to the

22 enforcement side of these policies.

23 CHAIRMAN DeFRANCISCO: Okay.

24 "Qualified manufacturer," you are familiar

1 with the definition, at least in the
2 Governor's budget. And all the questions I'm
3 going to ask -- there may only be one --
4 assume that that becomes the final budget.
5 Because you can't comment on what else could
6 possibly happen; there's an infinite number
7 of different ways it could be changed.

8 But under that proposal, do you have
9 any kind of estimate as to how many
10 manufacturers that previously received the
11 tax benefit would be eliminated?

12 COMMISSIONER MATTOX: I don't have
13 that number off the top of my head, but we
14 would certainly be happy to follow up with
15 something for you.

16 CHAIRMAN DeFRANCISCO: Okay. If you
17 can get that to me, that would be helpful.
18 And if it affects one region more than the
19 other, can you give me that as well?

20 COMMISSIONER MATTOX: Yes, we can do
21 that.

22 CHAIRMAN DeFRANCISCO: Okay. With
23 respect to the -- I gave you a sheet of paper
24 so as not to surprise you with this. It

1 deals with a letter that was sent to you by
2 the New York State Association of Convenience
3 Stores concerning the taxation of cigars, I
4 guess.

5 There was supposed to be a conference
6 call because there's confusion among --
7 different people are applying the new reg in
8 different ways.

9 COMMISSIONER MATTOX: Yes.

10 CHAIRMAN DeFRANCISCO: Did that
11 conference call ever take place?

12 COMMISSIONER MATTOX: I cannot comment
13 on the conference call. I did not
14 participate in it if it did in fact take
15 place.

16 What can I say, Mr. Chairman, is
17 that this is a remarkably complicated space
18 because it is not straightforward to
19 determine who the manufacturer is. And one
20 of the reasons why in the bulletin we tried
21 to create a safe harbor, if you will, in
22 terms of a discount before the tax is
23 applied, is in recognition of the fact that
24 it's not always easy to figure out where in

1 the distribution chain you are when you're
2 taking receipt of the product.

3 So this -- there's no question that
4 there's some confusion here.

5 CHAIRMAN DeFRANCISCO: So how do we
6 get it straightened out? Because people are
7 either charging too much tax or too little
8 tax, and it affects the business.

9 COMMISSIONER MATTOX: Well, the safe
10 harbor is a relatively new provision, so I
11 think we need a little bit of time to let
12 that work through. We're trying to work with
13 the principals throughout this chain, from
14 wholesalers through retailers, in terms of
15 familiarizing them with the bulletins.

16 And we're certainly -- to the extent
17 that you're hearing it would be helpful to do
18 more of that, whether it's conference calls
19 or follow-up work in other respects, we can
20 do that.

21 CHAIRMAN DeFRANCISCO: Well, let me
22 give you another idea. If it's confusing as
23 to what a manufacturer is in, would it be
24 helpful if the Legislature put something in .

1 the budget to make it clear what a
2 manufacturer was and wasn't?

3 COMMISSIONER MATTOX: It could.
4 Again, it depends on what other language
5 surrounds that. Often the legislation isn't
6 clean enough so that -- in fact, one of the
7 reasons why we have regs and the follow-up
8 bulletins is to provide clarification or
9 interpretation of the law.

10 CHAIRMAN DeFRANCISCO: Could you
11 possibly give it some thought as soon as
12 possible and, if there is some language that
13 will help clarify what you have to do in your
14 job so these convenience stores know what
15 they're supposed to do, if you have any
16 language, could you give us something?
17 Because it would be helpful to get it
18 straightened out once and for all.

19 COMMISSIONER MATTOX: We'd be happy to
20 do that.

21 The one other thing I would mention
22 here is that the -- whether it's the safe
23 harbor provision or other aspects of the
24 guidance that have gone out, we have tried to

1 work with the industry. So we've had
2 meetings, we've had phone calls with
3 representatives. We've certainly been in
4 contact with the New York Association of
5 Convenience Stores. So we have tried to
6 engage the principals in terms of what would
7 be helpful.

8 And one of the things that we heard
9 was that the safe harbor would in fact help
10 with respect to mitigating the impact of the
11 tax.

12 CHAIRMAN DeFRANCISCO: Thank you.

13 CHAIRMAN FARRELL: I think to close,
14 the Executive proposes to conform the state's
15 estate tax exemption threshold to the federal
16 levels and to reduce the top rates imposed
17 over the course of four years. The reduction
18 in estate and tax receipts will undermine the
19 significant progressive revenue sources of
20 the state.

21 Question. What are the expected
22 economic benefits and costs associated with
23 such conformity? What is the rationale for
24 this reform in context of overall revenue

1 neutrality, equity and fiscal sustainability?

2 COMMISSIONER MATTOX: Well, perhaps a
3 good place to start is whenever you have
4 deviation from federal tax policy, you've
5 introduced an additional layer of tax
6 planning with respect to New York-based
7 activities.

8 So our ability to conform with the
9 feds here, although for timing reasons we
10 won't match completely in terms of the
11 exemption and the indexing in terms of how it
12 kicks in, there's no question that that will
13 help with respect to mitigating some of the
14 planning, particularly more aggressive tax
15 planning, that occurs now.

16 Because of the costs associated with
17 this program, it is being phased in. So it
18 is a multiyear phase-in.

19 CHAIRMAN FARRELL: Can you provide any
20 information of the percentages of estate tax
21 receipts paid related to small businesses and
22 farms? We hear so much about the problems
23 they have. Do you have any numbers on that?
24 Can you get it to me?

1 COMMISSIONER MATTOX: I don't have
2 numbers. We can certainly follow up with
3 some.

4 The exemptions certainly, as they
5 would come in to conform approximately with
6 the federal exemptions, are going to be good
7 news for folks. Because as you know, the
8 existing million-dollar exemption is pretty
9 low when you consider that someone's home is
10 included in their estate. So downstate in
11 particular, that's going to be a pretty easy
12 number to get to for quite a few folks.

13 So raising the exemptions certainly
14 does help in terms of providing relief to
15 taxpayers. And I think the phase-in will
16 help to mitigate the cost to the state. But
17 as you know from reviewing the proposal,
18 ultimately approximately 90 percent of
19 families that would be subject to an estate
20 tax today would be exempt under the program
21 once it's fully implemented.

22 CHAIRMAN FARRELL: Thank you.

23 CHAIRMAN DeFRANCISCO: Senator Little
24 joined us a while ago, and I just forgot to

1 say she was here.

2 And Senator Krueger to close.

3 SENATOR KRUEGER: Thank you again.

4 So we talked about the circuit breaker
5 credit. Now just going back to the freeze
6 personal income tax refund. If I understand
7 it right, as you said, it's approximately
8 almost a billion dollars, \$976 million, in
9 fiscal year 2015-2016 to be given back to
10 taxpayers. So that is a check that you're
11 writing to each eligible taxpayer; correct?

12 COMMISSIONER MATTOX: No. In terms of
13 the freeze, this will more likely than not,
14 once we can get the timing sorted out, flow
15 through the tax return.

16 SENATOR KRUEGER: It will flow through
17 the tax return, not be a check.

18 COMMISSIONER MATTOX: Right.

19 SENATOR KRUEGER: Except when it flows
20 through the tax return, I know certain things
21 and I fill them out in my tax paperwork and
22 then I can be eligible for a credit or a
23 refundable credit. But in situation the
24 government has to determine was my geographic

1 government or governments, you know, meeting
2 the test, therefore making me eligible.

3 How, again, will I know that, and in a
4 timely way? Because I suppose you've got
5 school budget elections at one point in time
6 and tax returns due usually at a different
7 point in time. How am I supposed to figure
8 that all out?

9 COMMISSIONER MATTOX: Well, I think
10 we're going to try to do that for taxpayers.

11 So the one piece of this that we would
12 not have direct responsibility or control
13 within the department would be the
14 determination as to whether the jurisdiction
15 is, quote, cap compliant. So that call would
16 be made away from us.

17 But once we know that, the process of
18 creating the tables that would allow
19 taxpayers to very quickly determine -- and
20 again, we're working through these details
21 now. So whether it's something as simple as
22 a cross between, say, a zip code and
23 jurisdiction, entity number lookup or
24 something along those lines, we think we can

1 come up with something that will make it
2 relatively straightforward, no different than
3 the types of tables and charts you would see
4 now in terms of marginal tax rates or
5 something along the lines of the state and
6 local taxes that apply within a particular
7 jurisdiction. We use a lot of lookup tables
8 in other contexts now, so this would just be
9 one more tool.

10 So we can think we can get that --
11 once the determination is made, I think we
12 can come up with something that will make it
13 relatively painless to figure out whether
14 you're going to be eligible.

15 SENATOR KRUEGER: I have my doubts,
16 but okay.

17 So we've discussed and other people
18 have asked about the merger of Article 32
19 into 9A and the cost of lost revenue to the
20 state. Would you agree that this could have
21 been done in a tax-neutral way rather than
22 being a revenue loss?

23 COMMISSIONER MATTOX: Well, what I
24 will say is that when the Governor impaneled

1 the Tax Reform and Fairness Commission, you
2 may recall that in the press release one of
3 the points that was made or one of the
4 directions to the commission was that in fact
5 we do come in revenue-neutral.

6 So is it possible? Yes, it is
7 possible. We certainly operated under that
8 restriction when we had assembled our
9 recommendations.

10 The issue here, though, Senator, is
11 that to the extent that you can create
12 incentives for entities to comply and you can
13 make it easier for those entities to comply
14 because you now have a simpler code, their
15 own economic activity may experience an
16 uptick because there is greater certainty in
17 their ability to construct their business
18 plans. Those are all good things, and those
19 are all things that in fact can mitigate the
20 cost of the program as presented.

21 So, for example, one of the reasons
22 why we have an estimate or included an
23 estimate in terms of efficiencies from the
24 audit process is that it's actually going to

1 be easier for our auditors to review the
2 filings that come in under the proposed
3 change.

4 So there are some benefits that are
5 harder to model than others. But there is a
6 view that net-net, this could in fact support
7 economic activity and allow the state to
8 realize an uptick in receipts, ultimately.

9 SENATOR KRUEGER: Under our current
10 set of business tax credits and incentives,
11 we spend about \$1.7 billion a year for
12 business credits to corporate entities, sole
13 proprietorships, partnerships,
14 S corporations, et cetera. And all of those
15 credits go to just half a percent of all the
16 businesses in New York State.

17 Under the new package of proposals --
18 and there are a number. There's the
19 simplified bank category, there's the
20 assorted ITC, there's eliminating net income,
21 there's a number of them.

22 COMMISSIONER MATTOX: The brownfield
23 reform.

24 SENATOR KRUEGER: Right.

1 Under your proposal, the Governor's
2 proposal, at the end of the day will we no
3 longer be at such a large amount of tax
4 credits only going to .05 percent of the
5 businesses in New York State? Will we have
6 distributed the equity more evenly across
7 businesses?

8 COMMISSIONER MATTOX: Well, it might
9 be helpful for the committees to distinguish
10 between tax expenditures, which are specific
11 benefits that flow through the tax program,
12 that may or may not be associated with an
13 actual tax liability. That's different from
14 some of the changes that are being proposed
15 as part of the various reforms.

16 There's no question that there are
17 opportunities to do additional reform.
18 That's why I mentioned brownfield, for
19 example. But ultimately it's a policy call
20 to determine what entities are going to be
21 eligible for what types of tax expenditures.

22 But clearly, the reforms are
23 important, as we've tried to explain in the
24 budget.

1 SENATOR KRUEGER: I am out of time,
2 and I have been asked to wrap up. I am going
3 to follow up with a letter with a series of
4 questions. Because yes, policy is one issue,
5 but you need the facts in order to be able to
6 get to the right policy determinations. And
7 I feel that we are lacking in facts.

8 Thank you, Commissioner.

9 CHAIRMAN DeFRANCISCO: Thank you, sir.

10 CHAIRMAN FARRELL: Thank you very
11 much.

12 COMMISSIONER MATTOX: Thank you.

13 CHAIRMAN DeFRANCISCO: The next
14 witness is Ken Pokalsky, vice president,
15 government affairs, The Business Council.

16 On deck is Mike Durant, NFIB.

17 MR. POKALSKY: Good morning.

18 CHAIRMAN DeFRANCISCO: Good morning.

19 MR. POKALSKY: Thanks for the
20 countdown clock; that's very helpful.

21 CHAIRMAN DeFRANCISCO: Just pay
22 attention to it.

23 (Laughter.)

24 MR. POKALSKY: I will, sir.

1 On behalf of The Business Council and
2 its 2,400 employer members who represent
3 about a million private-sector jobs in
4 New York State, we appreciate this
5 opportunity to testify today. While there's
6 many factors in the budget that we are
7 interested in, my testimony today is going to
8 focus on the business tax reforms included in
9 the Executive Budget.

10 First and foremost, on the business
11 tax package, about a month ago the Business
12 Council released a study completed for us by
13 economists at Ernst and Young that's included
14 with our testimony today that illustrates the
15 opportunity cost of taxation on
16 private-sector employers and, conversely, the
17 economic results of tax reductions proposed
18 in the budget. The point being, tax revenues
19 taken out of the private sector has an effect
20 on business's ability to reinvest in the
21 company, to hire and pay employees, and to
22 pay dividends and distributions to their
23 owners.

24 Each of these activities produce

1 economic benefits to the state and generate
2 tax revenues for state and local governments.
3 We did this project to illustrate those
4 opportunity costs.

5 Specifically, our assessment focused
6 on the in-state economic impacts of a couple
7 of the major provisions in the Executive
8 Budget: The reduction of the Article 9A
9 corporate franchise tax rate to 6.5 percent,
10 a modernization and restructuring of the
11 corporate finance tax, an adoption of the
12 20 percent real property tax credit for
13 manufacturers. These measures are projected
14 to provide about \$560 million in direct
15 employer tax relief when fully implemented.

16 And our findings show that these
17 business tax reforms and lower business rates
18 will produce important job, income and
19 economic benefits to the state.

20 The analysis was based on the REMI
21 model of the New York State economy and shows
22 that in both the short and long term, tax
23 reform, a benefit to the private-sector
24 economy, will produce significant increases

1 in personal income, capital investment by
2 business, and state and local receipts over
3 the next five-to-10-year cycle.

4 The strong economic impact of this tax
5 reform package is due to the fact that it is
6 being targeted in industries with high
7 economic multipliers, including
8 manufacturing, information services, real
9 estate, and financial services. In short,
10 our research work here shows how a modern and
11 simplified tax code for New York State
12 employers will produce economic benefits for
13 the state.

14 Moreover, the tax reductions in the
15 Executive Budget are broad-based and will
16 provide benefits to the majority of the
17 corporate franchise taxpayers in the state,
18 and their benefits focus on current New York
19 State business employers and taxpayers. And
20 that while we're working with the
21 administration on a number of technical
22 amendments to that package, we do support it
23 and we urge its adoption.

24 On some of the specific reform

1 measures, the package was based on
2 recommendations in both the Solomon Tax
3 Reform and Fairness Commission and the
4 Tax Relief Commission chaired by former
5 Governor Pataki and Carl McCall and whose
6 membership included Business Council
7 President Heather Briccetti.

8 Among its keys reforms, again,
9 reducing the ENI-based tax rate for the
10 corporate franchise tax from 7.1 to
11 6.5 percent. This lower rate will give
12 New York State the lowest income-based tax
13 rate among the Northeast states and would put
14 New York State in the top third of
15 competitive business tax rates among the
16 50 states.

17 The package eliminates the alternative
18 minimum tax in Article 9A, which erodes the
19 effectiveness, the AMT erodes the
20 effectiveness of the investment and job
21 creation tax credits that we have. It
22 eliminates the state's separate bank tax,
23 bringing New York into line with the federal
24 tax code and the majority of other states

1 that apply a single general business tax.

2 These proposals have several important
3 policy objectives. They simplify the tax
4 code, with the intent of reducing compliance
5 and audit costs for the taxpayers and the
6 state alike. They will produce horizontal
7 equity, meaning that it will treat similar
8 taxpayers more uniformly. It will promote
9 economic growth by applying tax reforms that
10 New York State previously adopted in the
11 corporate franchise tax world with the intent
12 of eliminating tax disincentives to having
13 significant in-state employment and capital,
14 and apply those existing tax policy
15 structures to current bank taxpayers.

16 Again, while we're proposing several
17 technical amendments to this package -- for
18 example, we believe that the proposed
19 limitations on the use of the manufacturing
20 and research and development investment tax
21 credits presented in the Executive Budget are
22 too narrow -- we do generally support the tax
23 package as proposed.

24 I want to speak for a minute on the

1 manufacturer's real property tax credit.
2 During the Pataki-McCall Tax Reduction
3 Commission process, the Business Council was
4 a strong proponent of the idea that developed
5 into this manufacturer's property tax credit.

6 Importantly, as proposed in the
7 Executive Budget, this credit will apply to
8 all manufacturers operating in New York State
9 regardless of whether you're a C corp subject
10 to the corporate franchise tax or an S corp,
11 LLC or partnership whose business income is
12 primarily taxed on the personal income tax.

13 We think this property-tax-based
14 credit provides several significant important
15 economic development measures for the state.
16 First, it helps alleviate the impact of the
17 tax that is most disproportionately
18 burdensome for most New York State
19 manufacturers. Second, it will improve the
20 cost-competitiveness of manufacturers that
21 continue to be a source of good-paying jobs
22 across New York State. And third, by basing
23 the tax reduction on real property tax
24 payments rather than on a further reduction

1 of the tax rate for manufacturers, it assures
2 that the tax cut will flow primary to
3 employers with significant in-state capital
4 and jobs.

5 I want to emphasize there that to
6 speak to the issues raised by earlier public
7 participation at this hearing, when people
8 talk about the erosion of opportunity in
9 New York State, the erosion of the middle
10 class, the loss of job opportunity, in our
11 view, in large part we're talking about the
12 loss of manufacturing jobs.

13 Research that we've done shows that
14 the typical manufacturing job in New York
15 State pays about \$16,000 more than the
16 non-manufacturing private-sector job once you
17 get out of the New York City. These are
18 good-paying jobs. They're very important to
19 local economies across New York State, but in
20 particular in upstate New York. That's why
21 we think this property-tax-based credit aimed
22 at manufacturing statewide is very important.

23 The last specific proposal in the
24 budget we'd like to comment on is the

1 Governor's proposal for enhanced phaseout of
2 the Section 18a what in effect is a
3 gross-receipts tax on energy sales by
4 utilities. The way it's structured in the
5 budget, while there's \$200 million flowing in
6 enhanced phaseout of 18a, in the first year
7 the assessment would be completely eliminated
8 for the most energy-intensive entities in the
9 state, whether it's a business or an
10 institutional or a commercial taxpayer,
11 because that's where the 18a is having the
12 most significant adverse impact, in our view.

13 I think it's important to put this in
14 context. Since New York State repealed its
15 gross receipts tax in the tax code in 2000 on
16 utility energy sales, which at the time had a
17 tax reduction value of about \$150 million,
18 the tax has imposed well over a billion
19 dollars in other energy-based assessments and
20 fees, which has a real detrimental effect on
21 energy-intensive businesses in the state.

22 We were disappointed that 18a was
23 extended, albeit phased out in last year's
24 budget. We strongly support the enhanced

1 phaseout proposed in the Executive Budget and
2 the way it's structured.

3 Those are the topics we wanted to
4 focus on today. As I mentioned earlier, we
5 have an interest in many other issues in the
6 Executive Budget. We provided a summary of
7 those with our testimony today.

8 I'd be happy to answer any questions
9 you have, either in this setting or if we
10 need to do it individually after the hearing
11 is over. Again, on behalf of the Business
12 Council, we appreciate the opportunity to be
13 here today.

14 CHAIRMAN DeFRANCISCO: Thank you.

15 Nobody has any questions?

16 (Laughter.)

17 SENATOR KRUEGER: I do.

18 CHAIRMAN DeFRANCISCO: Senator
19 Krueger.

20 SENATOR KRUEGER: Good morning. Thank
21 you for your testimony.

22 How does the Business Council jibe, so
23 to speak, its stated negative of horizontal
24 equity with several proposals to provide

1 manufacturers in certain counties much
2 greater tax relief than manufacturers in
3 other counties?

4 MR. POKALSKY: Well, we didn't speak
5 to that issue in our testimony. We think
6 that the upstate manufacturers credit as
7 proposed in the Executive Budget has a number
8 of problems. I mean, they're fixable. But
9 the concerns that we have are that it's hard
10 to come up with a good definition.

11 And as was talked about with
12 Commissioner Mattox's testimony, the way it's
13 structured today is if you have any business
14 activity -- if you have any sales into the
15 MTA region, you would not qualify for the
16 credit, regardless of where your principal
17 operations are in the state. We don't think
18 that's consistent with the broader effort in
19 the budget to give an incentive to
20 manufacturing investment and jobs in the
21 state.

22 If we want to do more than what's in
23 the rest of the budget to promote
24 manufacturing, if we want to do more than the

1 property-tax-based credit, our view -- and
2 we've shared these views with the
3 administration -- there's different ways to
4 structure that additional benefit than what's
5 now being referred to as the upstate rate
6 reduction.

7 SENATOR KRUEGER: So again, in your
8 testimony you talk about horizontal equity
9 when it comes to corporate taxes. But you
10 don't see it as a conflict with your
11 principles when it comes to manufacturing tax
12 credits? Which I guess might be the first
13 time the state had different tax rules
14 depending on the geography of the company.

15 CHAIRMAN DeFRANCISCO: Isn't your
16 answer that you'll get what you can get?

17 SENATOR KRUEGER: Excuse me, you're
18 not representing the Business Council, are
19 you?

20 CHAIRMAN DeFRANCISCO: Just trying to
21 help out.

22 MR. POKALSKY: Again, we're not sold
23 on the idea of geographical differences based
24 for tax rates. If the purpose was to promote

1 manufacturing in the state, our preference
2 would be to do something other than the
3 upstate tax credit as it's proposed and
4 structured in the Executive Budget.

5 Again, we are strong proponents --
6 these are two separate things. The property
7 tax manufacturing credit is statewide. In
8 addition to that, there's a separate proposal
9 that would reduce one of the three tax
10 calculations in the franchise tax to zero if
11 you're a manufacturer located in upstate
12 New York, with upstate being defined as no
13 sales into the MTA region.

14 If there's an intent and an interest
15 in promoting an additional tax benefit to
16 manufacturers, we think there's better ways
17 to do it than that specific proposal.

18 SENATOR KRUEGER: I think you were
19 here when I asked the commissioner about the
20 statistic that of the estimated \$1.7 billion
21 in business tax credits, including the dollar
22 value of credits taken by corporate entities
23 as well as sole proprietors, members of
24 partnerships and S corporation shareholders

1 liable for the PIT, that of that \$1.7 billion
2 with 5 million tax filers in those
3 categories, only half a percent of those
4 5 million tax filers are drawing down on the
5 \$1.7 billion in credits.

6 Does the Business Council have a
7 position on that issue?

8 MR. POKALSKY: Well, part of your
9 question earlier was is this budget more
10 broadly effective --

11 SENATOR KRUEGER: Well, I asked him
12 whether it would make it more equitable.

13 MR. POKALSKY: And the answer is
14 absolutely yes, that there is about 350,000
15 C corps filing with tax liability under
16 Article 9A. This broadly affects all of
17 them, broadly benefits virtually all of them.

18 SENATOR KRUEGER: Does it disturb you
19 that half a percent of all the business
20 filers in New York State get any of these
21 credits?

22 MR. POKALSKY: Not particularly,
23 because the credits are designed for some
24 specific outcome. While the rate reduction

1 benefits you for the privilege of being
2 located in New York State, things like the
3 investment tax credit give you an additional
4 benefit in return for making additional
5 capital investment in the state, something
6 that as a matter of policy we support.

7 So no, I think you need to look at the
8 reasons for the tax credits. The same
9 argument could be made for brownfield
10 credits, that while there may be some
11 outliers in that program, there's no doubt
12 that these are properties that sat unutilized
13 for decades. And in part due to liability
14 releases on brownfields but also in part to
15 the tax credit, something good happened for
16 the state as a result.

17 So I think you need to look at not
18 just who gets the credit and what their value
19 is, you have to look at what the result or
20 return to the state is.

21 So no, it doesn't trouble us because
22 we think generally speaking, generally
23 speaking, the tax credits we have in place
24 have been useful to the state and useful to

1 the state's economy.

2 SENATOR KRUEGER: Well, I ran out of
3 time with the commissioner, but I agree. And
4 in fact the statistics I'm offering you is
5 from a full report that attempts to evaluate
6 the usefulness or validity of these tax
7 credit from the perspective of whether the
8 state is getting expanded business activity
9 from them.

10 So I refer everyone to the November
11 2013 report. Apparently it wasn't released,
12 and yet it was. So that the Business Council
13 I hope will take a look at it and we might be
14 able to discuss working together on frankly
15 getting rid of models that aren't working for
16 the State of New York. Thank you.

17 MR. POKALSKY: Sure. Sure.

18 CHAIRMAN DeFRANCISCO: Senator Savino.

19 SENATOR SAVINO: Thank you.

20 Following up on Senator Krueger's
21 questions and comments, since I was elected
22 to the Senate in 2005, the State of New York
23 went from spending about \$350 million in tax
24 incentives and Empire Zones to roughly about

1 \$7 billion dollars now, with no
2 accountability on any of these programs. And
3 in the Governor's budget we're talking about
4 increasing business tax cuts and business tax
5 credits.

6 And again, no one is suggesting that
7 we shouldn't do more to foster a better
8 business environment in New York State. We
9 all know the statistics, and we've seen the
10 results of it.

11 But I think Senator Krueger makes a
12 valid point. Before we go down the road of
13 throwing more money after these programs, we
14 should evaluate the ones that we have to
15 determine whether or not they're worthwhile.
16 And I'm sure that the Business Council has
17 some opinions on some of these programs,
18 whether it's the IDAs or our Brownfields
19 Program or what was left of Empire Zones or
20 even the Regional Economic Developments.

21 But I want to thank you for your
22 testimony because attached to it, unlike
23 others, you guys have some of the things in
24 the budget that you support, with

1 explanations, and some of the things that you
2 oppose. And I notice in the section under
3 Education, Higher ed and Workforce that the
4 Business Council in fact is supporting the
5 expansion of UPK. UPK is very sexy.
6 Everybody loves it now. Everybody loves
7 4-year-olds, which is great.

8 But so you're supporting the
9 Governor's proposal to commit \$1.5 billion
10 over five years to universal pre-K across the
11 state. And that's a tremendous amount of
12 money, and I'm glad that the Business Council
13 is behind it. But I'm curious as to what
14 your opinion is of our new mayor's proposal
15 to allow the City of New York to raise its
16 own revenue dedicated to this so it doesn't
17 come out of the state's coffers.

18 MR. POKALSKY: Well, we're interested
19 in the mayor's proposal because it does have
20 statewide effects. Given that so much of the
21 strength of the New York City economy, and
22 particularly the New York County economy, is
23 an important element of the budget, important
24 element of the regional economy to the state.

1 So things that could have an adverse economic
2 impact in the city is of concern to us.

3 We don't necessarily agree that the
4 only, the only path forward on financing
5 pre-K is an upper-end income tax hike in the
6 city. And we are concerned of the economic
7 impact when you have marginal income tax
8 rates that exceed 50 percent. We do think
9 that has a negative economic consequence. We
10 do think that will make people think
11 differential about doing business in New York
12 State.

13 And finally, since such a large
14 component of upper-end income is not wages
15 but capital gains, taxpayers have a lot of
16 discretion as to when and where and how they
17 recognize those. So I think the notion that
18 putting an extra tax on high income is a
19 guaranteed stable source of revenue is real
20 questionable.

21 So no, we don't think the two things
22 are equated, and we have real concerns about
23 the mayor's tax proposal.

24 SENATOR SAVINO: But you don't have a

1 concern about spending \$1.5 billion in state
2 money on it. That seems to be the preferable
3 method, is that what you're saying, Ken?

4 MR. POKALSKY: Uh, we have a --

5 SENATOR SAVINO: You don't have to
6 answer. Think about it.

7 MR. POKALSKY: No, I think we -- as
8 the Executive Budget's proposal, it
9 accommodates a lot of spending priorities.
10 If it can be accommodated in the Executive
11 Budget as designed, I don't know why we would
12 need to do a separate tax increase to make it
13 happen.

14 And again, I'm by no means the expert
15 on staff on education policy. And we'd be
16 happy to follow up with you on it.

17 SENATOR SAVINO: And one other point
18 that I'll make is that the Business Council
19 also takes a position on another issue that
20 has been kicking around Albany for a very
21 long time but seems to be gaining steam, and
22 that is campaign finance reform.

23 So as you know, the Governor is
24 proposing that we adopt a public financing

1 system. He hasn't really described the
2 mechanism by how we would do that, but
3 essentially supporting the idea that we
4 should have a system in the state modeled on
5 the system in the City of New York, which is
6 a six-to-one match for candidates who raise a
7 particular amount of money from small donors.
8 And the idea is to eliminate the influence of
9 big money in politics, limiting the
10 contributions of LLCs, et cetera.

11 The Business Council is clearly
12 stating that they're opposed to this plan in
13 its entirety, or in portions of it? Because
14 you do make reference to the LLC
15 restrictions. If that weren't part of the
16 discussion, would there be any support for
17 the idea of a public financing system?

18 MR. POKALSKY: Well, I mean, we
19 represent input from our members. In both
20 input from our members and our board, we do
21 not support public financing.

22 If the issue is to address the recent
23 past history of legal violations or legal
24 concerns, it doesn't seem to get to that.

1 That hasn't been the nature or the source of
2 those types of problems in the state.

3 I mean, it's an add-on cost. I mean,
4 our observation of how it's worked in City of
5 New York, there just doesn't seem to be a
6 compelling argument to do it. It's virtually
7 unheard-of around the nation. It's an
8 unusual way to go. And we haven't seen any
9 support for it within our membership, bottom
10 line.

11 SENATOR SAVINO: Thank you. Thank
12 you.

13 CHAIRMAN DeFRANCISCO: Thank you very
14 much.

15 I just want to put an exclamation
16 point or two on the importance of
17 manufacturing in the state, having lived in
18 Central New York my whole life and seen the
19 manufacturing base dwindling, dwindling
20 continuously, and the spinoffs that were
21 affected by that dwindling nature.

22 The only other point I'd like to make
23 in closing and sending you off for the rest
24 of your day is that in mentioning Governor

1 Pataki and Comptroller McCall's report, you
2 mentioned another report leading into these
3 tax changes, these broad-based tax changes
4 that are in the Governor's budget, you forgot
5 one very important report, the one that was
6 out first, the Senate Majority report, or the
7 Republican Conference report on broad-based
8 taxes which led the way for this thinking in
9 the State of New York.

10 Do you apologize for that?

11 (Laughter.)

12 MR. POKALSKY: I do, sir. It was an
13 unintended oversight, and we appreciate that
14 was the first one we testified at.

15 CHAIRMAN DeFRANCISCO: Thank you.

16 MR. POKALSKY: You're welcome. Thank
17 you.

18 CHAIRMAN FARRELL: Thank you very
19 much.

20 CHAIRMAN DeFRANCISCO: The next
21 speaker is Mike Durant, New York State
22 director, NFIB, to be followed by Karyn
23 Burns.

24 MR. DURANT: Good morning.

1 CHAIRMAN DeFRANCISCO: Good morning.

2 CHAIRMAN FARRELL: Good morning.

3 MR. DURANT: First, thank you, Senator
4 DeFrancisco and the other respective members
5 from both houses in both parties for this
6 hearing today --

7 CHAIRMAN DeFRANCISCO: And Assembly
8 Ways and Means Chair Farrell.

9 MR. DURANT: And the Assembly chair,
10 yes. Excuse me, Chairman Farrell.

11 On behalf of 11,000 small and
12 independent businesses in every portion of
13 the state, I'm happy to be here as state
14 director for NFIB. Our membership is
15 comprised of sole proprietors to farmers,
16 manufacturers and retailers. The typical
17 NFIB member has five or fewer employees, and
18 more than half of our members report gross
19 sales of \$350,000 net or less.

20 The importance of small business to
21 our state's economy cannot be overstated.
22 Last year there were more than half a million
23 small businesses employing almost 4 million
24 workers in the state. In addition to being a

1 major job creator, small businesses are vital
2 to our communities and an essential component
3 to our economic future. Through countless
4 examples of volunteerism and philanthropic
5 endeavors, it would be difficult for any
6 New Yorker to say that their lives have not
7 been positively impacted by Main Street
8 businesses.

9 NFIB regularly canvasses its members
10 on the issues that most concern them. It is
11 not surprising that New York's crushing tax
12 burden remains top on the list. We
13 appreciate that Governor Cuomo, first, has
14 recognized that New York's future economic
15 potential will be diminished significantly if
16 our onerous tax structure is not drastically
17 overhauled and, second, has proposed action.

18 Too often tax reform is strategic in
19 nature and nibbles around the edges of major
20 reform -- Start-Up NY, for us, enacted last
21 year, would be an example. That said, this
22 package of tax reform is, while not the slam
23 dunk that has been purported by some, a
24 better step forward with room to dramatically

1 put cracks in New York's cemented status as
2 the tax capital of the nation. But for us,
3 this plan needs to be broadened.

4 Quickly running down the components
5 that we support, and also rightfully
6 acknowledging that these elements were within
7 our 2014 legislative agenda, we support the
8 accelerated phaseout of the 18a assessment.
9 Consumers, including businesses, will see
10 immediate savings in their energy costs.

11 We support the reduction of the
12 corporate tax rate to help strengthen the
13 fiscal footing of businesses across the state
14 while adding much-needed clarity and equity
15 to the state's code.

16 Also critically important,
17 particularly to our family-owned small
18 businesses and farms, the estate tax reform
19 is strongly supported by NFIB. Increasing
20 the exclusion threshold and reducing the top
21 tax rate will help ensure that many of our
22 family-owned businesses stay here in
23 New York.

24 We also do support the manufacturing

1 element. I think that has been discussed
2 earlier. And keeping with the theme of our
3 testimony, broadening the manufacturing tax
4 cuts, because we do have manufacturers we
5 represent in New York City and the MTA
6 region. Any expansion of that tax cut we
7 would also support. But we do officially
8 support what's being proposed now as well.

9 For the other side of our argument, it
10 is our position that the tax reform proposed
11 by the Governor is in fact an incomplete
12 plan, incomplete because it largely leaves
13 out the immediate relief that many true small
14 businesses desperately need now. Tax cuts
15 for corporations and manufacturers are
16 necessary and laudable, but this proposal
17 leaves out 75 percent of New York's small
18 business owners.

19 There's no tax relief for many of the
20 same group of small business owners that have
21 seen their costs rise as a result of the
22 minimum wage hike, the temporary increase in
23 unemployment insurance premiums, and state
24 taxes on health insurance coverage for

1 themselves and their employees through the
2 Affordable Care Act.

3 The increased costs for small
4 businesses aren't balanced out by any tax
5 relief. START-UP NY, if it succeeds, will
6 have minimal induced benefits for small
7 businesses that we represent. The majority
8 of our members do not qualify for the
9 business-expansion mechanism of the program.
10 So where does that leave small business?
11 Searching for recognition from the Governor
12 and Albany of their importance to our state's
13 economy.

14 It is critically important to note
15 that the majority of small businesses pay
16 their taxes through the personal income
17 filings. The Governor's budget does not
18 include any PIT reductions or targeted PIT
19 reductions for small business. NFIB's
20 position is that tax reform should be broad
21 in scope and impact. This plan, while as I
22 have illustrated earlier is more broad, fails
23 to offer any relief to a critical segment of
24 the economy that frankly cannot continue to

1 shoulder such a sizable piece of New York's
2 tax burden.

3 We strongly urge amending this
4 proposal to include a PIT reduction that
5 would benefit both small businesses and
6 New Yorkers that need their costs reduced.
7 Another alternative would be to put in place
8 a percent deduction on business earnings for
9 personal income filers. Either approach
10 would fully capture the small business
11 community.

12 Similarly, NFIB strongly opposes the
13 circuit breaker methodology proposed in this
14 fiscal plan. A circuit breaker will only
15 shift the burden, while avoiding addressing
16 the structural reasons behind the large
17 property tax burden.

18 In relation to this position, we also
19 oppose the two-year property tax freeze. We
20 appreciate the Governor looking at New York's
21 property tax problem, but feel this method of
22 tackling the problem is not a viable course
23 of action.

24 A circuit breaker is not true tax

1 reform. A temporary tax freeze is also not
2 tax reform. They are avoiding the problem
3 and shifting costs. Shifting the costs
4 through a circuit breaker ignores the
5 politically sensitive issues of mandate
6 relief. NFIB was a strong supporter of the
7 enacted property tax cap, and we maintain
8 that the cap needs to be paired with
9 significant mandate relief in order to
10 address our high property tax problem.

11 We agree with the Governor that
12 property taxes are among the most onerous
13 taxes for New Yorkers. We also appreciate
14 his effort to out those taxes. We do not,
15 however, agree with his proposal in its
16 entirety. New York will never be truly open
17 for business if our schools and
18 municipalities are in fiscal peril, largely
19 due to state-mandated costs.

20 Additionally, NFIB feels that the bulk
21 of the tax cuts within this proposal are
22 based upon future restrictive state fiscal
23 plans. We completely agree that the Governor
24 and Legislature have done a necessary and

1 terrific job of reigning in state spending,
2 but relying on the adherence of limited
3 spending increases in future budgets is a
4 leap of faith that employers and taxpayers
5 should not have to take.

6 NFIB would support and urge the final
7 budget deal to include, as the Senate
8 Majority Coalition's first report mentioned,
9 a 2 percent state spending cap. This would
10 ensure the rightsizing of government and
11 ensure that these tax cuts, as proposed
12 today, would take effect.

13 As I stated at the beginning, NFIB
14 applauds the Governor for focusing on tax
15 relief and reform. It is a solid foundation
16 that has components which NFIB supports. We
17 urge the Legislature to build on that
18 foundation and will work with all sides of
19 this debate to shape a brighter future for
20 all New Yorkers. Achieving this vision,
21 however, will require the adoption of a broad
22 and comprehensive tax relief plan which
23 includes small business and return the focus
24 on comprehensive mandate relief measures

1 rather than shifting costs and avoiding the
2 fiscal ills of our communities and schools.

3 Thank you.

4 CHAIRMAN FARRELL: Thank you.

5 CHAIRMAN DeFRANCISCO: Thank you very
6 much. Very good. You were very clear.

7 MR. DURANT: Thank you.

8 CHAIRMAN DeFRANCISCO: Next speaker,
9 Karyn Burns, from MACNY, Manufacturers
10 Association of Central New York, to be
11 followed by E.J. McMahon.

12 MS. BURNS: Good morning, everyone.
13 I'd like to take the opportunity to say thank
14 you for facilitating this hearing and
15 allowing me the opportunity to speak.

16 My name is Karyn Burns, and I am
17 proudly the vice president of government
18 affairs for MACNY, the Manufacturers
19 Association of Central New York. For those
20 of you who aren't familiar with MACNY, we are
21 a 100-year-old trade association, started in
22 1913. We are based out of Syracuse,
23 New York. We represent about 330
24 manufacturers within a 23-county region.

1 In addition to this, we're proud to be
2 part of the Manufacturers Alliance, which is
3 a statewide alliance. It actually includes
4 5400 manufacturing companies, we're in
5 43 counties, and we have groups including the
6 Buffalo-Niagara Manufacturing Alliance, the
7 Long Island Forum for Technology, the Council
8 of Industry of Southeastern New York, MACNY,
9 The Manufacturers Association, the Rochester
10 Tooling and Machining Association, as well as
11 the Chief Executive Network out of Albany.

12 What I would like to talk to you about
13 today is some of the benefits and some of the
14 hindrances that come out of Governor Cuomo's
15 Executive Budget. A couple of things I'd
16 like to talk about have to do with some of
17 the benefits.

18 We have long advocated for the 18a
19 assessment, the Temporary State Energy and
20 Utility Service Conservation Assessment, to
21 be eliminated. No matter how you put it,
22 this was a tax on industries who are
23 energy-intensive businesses. This obviously
24 impacts them greatly, and I would strongly

1 recommend that we phase out this assessment,
2 but I would also recommend that you phase out
3 this assessment for all other users and also
4 eliminate this progressive tax for them as
5 soon as possible.

6 Something I would like to discuss
7 today as well actually has to do with what
8 the definition of a manufacturer is. I know
9 this has been mentioned with others in their
10 testimony today. And under this proposal, an
11 upstate qualified manufacturer is by
12 definition defined as a taxpayer or a
13 combined group that is a manufacturer with
14 either at least \$10 million or 100 percent of
15 its manufacturing property in New York State.
16 Or, for those that do not have more than
17 50 percent of its business in manufacturing,
18 they must have at least 2500 manufacturing
19 employees and \$100 million in manufacturing
20 property in-state.

21 As the state's largest and leading
22 group advocating for manufacturers, I can
23 tell you that this definition not only will
24 eliminated the majority of manufacturers in

1 New York State, but it fails to accurately
2 reflect the true definition of the sector.
3 The average New York manufacturer, believe it
4 or not, has 25 employees, yet generates a
5 significant economic impact.

6 Despite what some may consider the
7 small size, their large payrolls, their
8 community-supporting jobs, their out-of-state
9 revenue generation and their capital
10 investments make them worth every possible
11 incentive to make it easier to do what they
12 do best, which is generate revenue and
13 sustain good-quality, high-paying jobs.

14 The recommended parameters around a
15 qualified New York manufacturer will actually
16 eliminate nearly all of these manufacturers
17 from those who would receive those benefits.
18 And with that, I highly encourage the
19 Legislature to reconsider this new definition
20 to ensure the businesses that need it most
21 and will provide the best return on
22 investment would receive the tax breaks
23 proposed.

24 Another problem of concern within this

1 proposal is the definition of "upstate" as
2 outside the MTA region. As proponents of
3 increasing commerce and business, we have
4 always found it very challenging and
5 counterproductive to enact geographic
6 barriers for policy and tax break incentives.

7 A great example of this was our
8 long-time advocacy for a long-term economic
9 development power program. We were proposed
10 a few years ago to make it an upstate and
11 downstate incentive program, and we said no,
12 absolutely not, there are many manufacturers
13 in the downstate region, particularly in
14 New York City, who would who could use this
15 benefit as well.

16 This is something we long advocated
17 for despite the majority of our members being
18 upstate. And as you know, today we have
19 Recharge New York, which is a statewide
20 economic development power program. We would
21 actually condone the same sort of principle
22 here.

23 Implementation of this proposal is
24 challenging on two fronts. One, it's

1 challenging for the hardworking and highly
2 populated manufacturers that reside and
3 manufacture products within that region; and,
4 secondly, for denying tax breaks for any
5 upstate manufacturer who does business with
6 companies within that MTA region.

7 And yet, again, the definition of this
8 caliber is going to significantly cut out a
9 number of applicable and hardworking
10 manufacturers. In fact, according to a study
11 in 2010 conducted by the Manufacturers
12 Research Institute, which is our policy and
13 research arm of the Manufacturers Alliance,
14 New York City alone is the single largest
15 center of manufacturing in New York State,
16 with more than 81,000 jobs and \$4.2 billion
17 in payroll in 2009 alone.

18 So to make this definition and exclude
19 anyone within the MTA region is going to
20 impact a large portion of our hardworking and
21 much-needed state's manufacturers, who all
22 deal with all the same high taxes and the
23 challenging business climate as their sector
24 partners in the rest of the state.

1 And additionally, to put a restriction
2 on the tax exception for manufacturers
3 located outside of an MTA region but who
4 conduct business within that region is
5 clearly another example of
6 counterproductivity. The state should never
7 be in the business of discouraging their
8 manufacturers from conducting any sort of
9 business that would generate revenue,
10 particularly within our state.

11 And as such, we highly recommend a
12 serious analysis and a reconsideration of the
13 proposed geographic definition for both
14 businesses located inside and outside of the
15 MTA region.

16 MACNY and the Manufacturers Alliance
17 are also encouraging you to continue the
18 reduction of the corporate franchise tax to
19 manufacturers in the upcoming budget, and to
20 ensure that this tax rate is eliminated for
21 applicable manufacturing corporations. In
22 doing so, New York State will be making a
23 solid investment in its economic future by
24 providing the manufacturing sector with

1 incentive to continue doing business and,
2 just as important, grow and expand in
3 New York State.

4 And additionally, with the
5 manufacturing sector's job multiplier effect
6 being as strong as it is, this incentive will
7 increase related jobs and overall investment
8 in the state's economy. And most
9 importantly, it will be sending a strong
10 message that New York State values its
11 current manufacturing community statewide and
12 it is ready to step up as a major competitor
13 on the international playing field for
14 retaining talent in New York State.

15 And what I'd like to leave you with
16 are some additional points and statistics
17 from our 2010 study, which was a decade-long
18 snapshot. We were commissioned with the
19 Nelson Rockefeller Institute, and what we
20 were trying to grab was a glance of
21 definitions, trends and benefits from
22 New York State manufacturing.

23 And just so you know, in this study
24 the following facts were captured, the first

1 fact being that manufacturing in New York is
2 a high-value enterprise, with value added per
3 dollar of final shipments being 27 percent
4 above the national average. So this means
5 that products made in New York tend to
6 generate relatively high levels of employee
7 compensation and spinoff economic activity.

8 New York ranks sixth among the states
9 in total manufacturing employment within the
10 national economy that boasts the largest
11 manufacturing sector in the world. Overall
12 payrolls in the manufacturing sector are
13 large because the wage is high, at an average
14 of \$57,145 statewide, which is far above
15 positions in other sectors.

16 And finally, and probably most
17 importantly in this case, the manufacturing
18 sector in New York State is actually small,
19 with our study saying that in the 18,800
20 manufacturing establishments within New York
21 State, all needed, the average facility has
22 25 employees.

23 As you know, we obviously are
24 advocating on a number of the tax breaks that

1 are provided in the Governor's budget. We
2 would ask that you support that as well. But
3 what we think is important, and we're asking
4 the Legislature to respectfully look into, is
5 the true definition of a manufacturer, to
6 make sure that these hardworking businesses
7 that need those tax breaks would be receiving
8 the benefits that are being offered.

9 I'm happy to answer any questions that
10 you have, and I thank you very much for your
11 time.

12 CHAIRMAN FARRELL: Assemblyman
13 Blankenbush.

14 ASSEMBLYMAN BLANKENBUSH: Thank you.

15 Something that you haven't mentioned,
16 but I think maybe we should mention it, even
17 though it doesn't have to do with the taxes
18 so much. But when attending the meeting in
19 Syracuse, MACNY's annual meeting, in that
20 room several of the manufacturers -- if not
21 all of the manufacturers -- indicated to us
22 that our educational system is not putting
23 out qualified students that could take some
24 of the jobs that were open. I think everyone

1 in that room said they had job openings that
2 were good-paying jobs.

3 And I think we've got to take a look
4 at how our educational system is working with
5 our manufacturers groups. Because not all of
6 our students are going to go to college, and
7 some of them are looking for careers. And it
8 was clear to me in that room that perhaps our
9 education system is not doing the job it
10 should. And I just wondered if you have any
11 comments on that.

12 MS. BURNS: I have many comments on
13 that, but I'll be somewhat limiting.

14 Yes, I actually was in the same panel
15 with you with that discussion.

16 I think actually I'm seeing a lot of
17 growth. You know, workforce development and
18 finding a skilled workforce and tapping into
19 the education system has been something, you
20 know, that we've been challenged with for
21 years. I am seeing a lot more synergy
22 between the administration, the Legislature,
23 the school system and the business community.

24 We actually had a panel recently

1 facilitated between Senator Griffo and
2 Assemblyman Stirpe, and it brought together
3 the community colleges, the local
4 universities, the Syracuse City School
5 District, outside suburban districts as well,
6 and businesses. And what we're looking to do
7 is be able to streamline those.

8 I have a great example. We have a
9 business -- you know, just the other day I
10 was talking to an executive, and he has a job
11 that anyone coming out of high school, they
12 would need a high school degree, but they're
13 paying \$65,000. But they need that skilled
14 labor. So that's the challenge, is being
15 able to connect with the city school
16 districts to allow them to basically build a
17 skill during those four years.

18 I mean, there are wonderful careers in
19 manufacturing, and that's one of the things
20 that we're trying to express. So I know that
21 there will be more forums coming up in the
22 future, and I appreciate your interest in
23 that.

24 ASSEMBLYMAN BLANKENBUSH: And the

1 Common Core certainly isn't approaching those
2 types of jobs for training.

3 MS. BURNS: Um, yeah.

4 ASSEMBLYMAN BLANKENBUSH: Just a
5 comment. Thank you.

6 CHAIRMAN DeFRANCISCO: Senator Little.

7 SENATOR LITTLE: Thank you very much.

8 MS. BURNS: Thank you, Senator.

9 SENATOR LITTLE: I appreciate your
10 discussion on the definition of
11 manufacturing. It certainly would eliminate
12 just about every manufacturing facility in my
13 district.

14 But is your organization going to
15 submit a wish definition of manufacturing
16 that you think would be more helpful?

17 MS. BURNS: Yes. Thank you very much
18 for that question. I'm going to actually
19 answer that twofold.

20 One thing I forgot to mention was of
21 the 5400 manufacturers that we represent
22 within the Manufacturers Alliance, we're
23 actually going to be executing a survey next
24 week. For the next two weeks, we'll be

1 following up with information.

2 And the beauty of it is that it's
3 simple to ask them, you know, with
4 \$100 million would you apply for this, would
5 you apply for this, would you apply for this,
6 and then break down that information and be
7 able to quantify that, report that back to
8 you, and say these are the businesses that in
9 terms of our survey would be applicable and
10 would be not.

11 MACNY has always been a proponent of
12 coming to the Legislature with our
13 complaints, but also coming up with a proper
14 solution. But once we can quantify those
15 results from the survey so we can better
16 capture exactly what our manufacturers are
17 right now -- we do know the numbers are
18 small, 25 employees, as I said. It's no
19 longer the Kodak or the IBM era of the past.
20 But yes, we will be getting back to you with
21 what we believe would be beneficial for the
22 true definition.

23 Because the definition is very
24 important, obviously. It needs to be

1 reflective.

2 SENATOR LITTLE: Right. I would just
3 suggest by the first of March would be
4 probably a good date.

5 MS. BURNS: You got it. Yes, of
6 course. Thank you very much.

7 CHAIRMAN DeFRANCISCO: Thank you.

8 And under the current definition, not
9 only would many manufacturers, a majority of
10 them not qualify, because they're small
11 businesses, but they'd lose additional
12 benefits. So this is a net loss to a
13 majority of the manufacturers, is that fair
14 to say?

15 MS. BURNS: Yes. Yes.

16 CHAIRMAN DeFRANCISCO: So I'm looking
17 forward to your definition as well of a
18 manufacturer, because it's really important.

19 Thank you very much.

20 MS. BURNS: Thank you.

21 CHAIRMAN FARRELL: Thank you.

22 CHAIRMAN DeFRANCISCO: The next
23 speaker, E.J. McMahon, president of the
24 Empire Center for Public Policy.

1 ASSEMBLYMAN OAKS: We've been joined
2 by Assemblyman Walter.

3 CHAIRMAN DeFRANCISCO: On deck, Brian
4 Sampson.

5 MR. McMAHON: Good morning, Senator
6 DeFrancisco, Assemblyman Farrell, other
7 members of the joint fiscal committees,
8 Assemblyman Oaks, Senator Valesky and others.

9 The Governor's 2015 budget devotes
10 more resources to actions under the heading
11 of, quote, unquote, tax reduction and tax
12 cuts than any state budget we've seen in some
13 years. And this in itself is an encouraging
14 development because it recognizes that
15 New York needs to do still more to shed its
16 reputation as a high-tax state.

17 Unfortunately, not all of the actions
18 proposed by the Governor would actually
19 result in a net reduction in our state and
20 local tax burden. More than half of the
21 recurring value of his total tax package
22 would be devoted to "property tax relief"
23 measures that would simply shift some of the
24 tax burden from the local level to the state

1 level without reducing it overall.

2 Now, I'd like to turn the spotlight
3 back to a few tax policy priorities that were
4 identified in a joint statement issued in
5 December by my organization, the Empire
6 Center, and the Washington, D.C.-based
7 Tax Foundation. First, begin a phaseout of
8 the temporary personal income tax increase on
9 high-income earners. Second, permanently
10 enact the temporary middle-class income tax
11 cuts that were first enacted in December
12 2011. Third, permanently index the state
13 personal income tax code to inflation.
14 Fourth, increase the exemption on the
15 New York State estate tax to match the
16 federal level of \$5.25 million. And fifth,
17 last but not least, permanently enact the
18 2 percent local property tax cap.

19 Now, Governor Cuomo's budget addresses
20 just one item on that list, the estate tax
21 reform. And that's an important step in the
22 right direction, for reasons I'll argue in a
23 few moments. In addition, the proposed
24 merger of the corporate and bank taxes is a

1 welcome modernization of the tax code, and
2 the proposed across-the-board cut in
3 corporate rates at least benefits all payers,
4 as opposed to the more targeted cuts the
5 state has been favoring otherwise.

6 However, the budget's failure to
7 address the temporary, underscore temporary,
8 provisions of the personal income tax is
9 especially glaring at a time when the
10 Governor says the state can afford to enact
11 new tax cuts and new property tax subsidies
12 that will be worth more than \$2.5 billion by
13 fiscal 2018. As it happens, this sum also
14 represents a sizable chunk of what you'd need
15 to phase out most of the millionaire tax, so
16 called, and to permanently enact middle-class
17 tax cuts.

18 As things now stand, the Executive
19 Budget effectively finances permanent new
20 "tax cuts" with the revenue raised from a
21 sizable temporary increase in the state's
22 largest tax.

23 The personal income tax, as you know,
24 is an integral part of the business tax

1 climate, and in New York City, the beating
2 heart of our economy in some ways, there's an
3 added resident income tax of up to
4 3.9 percent, which brings the combined total
5 rate in the city to 12.8 percent, which is
6 the second-highest in the country and
7 considerably higher than found in most other
8 jurisdictions. The city also imposes an
9 unincorporated business tax of 4 percent,
10 which hits both resident and non-resident
11 participants in pass-through entities.

12 The temporary state rate of
13 8.8 percent is a hair below the previous rate
14 that you temporarily enacted in 2009, but
15 it's higher than any permanent PIT rate
16 imposed by New York State since the historic
17 bipartisan state income tax reform of 1987.
18 It's among the highest rates imposed by any
19 state with an income tax. And as a result of
20 that, the highest-earning 1 percent of
21 New Yorkers in 2014 are expected to generate
22 43 percent of the state's income tax
23 receipts, which is equivalent to the all-time
24 high of 2007, although the incomes of this

1 segment of the economy haven't returned to
2 2007 levels after falling 40 percent in the
3 recession.

4 The state needs to wean its budget
5 from over-reliance on the income gains of the
6 wealthiest taxpayers, which the Assembly
7 Majority Ways and Means staff itself has
8 called "inherently unstable," "volatile" and
9 "unsustainable." New York needs a more
10 competitive, broadly based, predictable and
11 permanent income tax structure.

12 It's also time to permanently enact
13 the property tax cap by removing the
14 conditional 2016 sunset date from the current
15 tax cap law, which is the single most
16 important step the state has taken to bring
17 about a long-term reduction in its
18 extraordinarily high property tax burdens.

19 I'd like to jump over the points about
20 property tax unless you want to address them
21 further, and get into one of the more
22 positive elements of the budget agenda, which
23 is the estate tax reform.

24 The national landscape of estate

1 taxation has changed considerably since 2001,
2 when the federal government began to phase
3 out its tax and the tax credit that
4 effectively picked up the cost of estate
5 taxes at the state level. Most states,
6 including California, Texas and Florida,
7 responded to the federal change by either
8 repealing or allowing their own estate taxes
9 to disappear during the next few years.
10 New York is among a dwindling number of
11 holdouts. It's one of only 18 states that
12 impose any kind of death tax, and one of only
13 14 with an estate tax.

14 The federal death tax was simplified
15 and reduced from prior permanent law levels
16 under reforms enacted in 2011 and revised in
17 2013 under a bipartisan agreement between
18 President Obama and Congress. However,
19 New York taxes estates under the far more
20 onerous rules of the pre-2001 federal law,
21 which adds to the cost of tax compliance.

22 In 2012, federal taxes were owed by
23 3,738 estates throughout the country in all
24 50 states. That same year, New York State

1 collected taxes from more than 4,000 estates.
2 While the state death tax hits about
3 10 percent of all estates admitted to probate
4 in New York, it overshadows the future
5 legacies of a much larger number of current
6 New York residents, including tens of
7 thousands of small business owners and
8 farmers.

9 More than 429,000 New York households
10 have investable assets of over \$1 million,
11 excluding real estate, according to one
12 marketing study, which I footnoted in my
13 testimony. This is at least 10 times the
14 number of state resident households with
15 annual incomes above \$1 million.

16 New York's death tax has made us an
17 outlier among competing states, which is why
18 Governor Cuomo has suggested that it's a
19 so-called "move to die" tax. However, there
20 are quite a few New Yorkers, especially
21 farmers and small business owners, whose
22 assets are literally rooted in New York, and
23 the estate tax threatens to diminish the
24 value of what they would prefer to pass along

1 to heirs who want to stay in New York.

2 Now, to prevent this, they can pay
3 lawyers and financial consultants to help
4 them devise transition and estate plans to
5 minimize the tax. But as one dairy farmer
6 put it to me just last week, and I quote,
7 "These are costs that don't make any more
8 milk, grow any more corn or pay another
9 employee, or anything else you need. It's
10 all just to stay in existence and not have to
11 sell off a section of property just to pay
12 estate taxes."

13 Now, to address this issue, the
14 Executive Budget would reform the estate tax
15 in two significant ways: phasing in an
16 increase in the basic exemption to match the
17 federal threshold, and cutting the top death
18 tax rate to 10 percent from the current
19 16 percent.

20 And by the way, I point out --
21 probably most of you are probably aware of
22 this -- but that million dollar threshold,
23 that's not a threshold in the normal sense.
24 It doesn't mean that you don't pay taxes on

1 estate values under a million dollars. It
2 means that once you're over a million
3 dollars, you begin to pay taxes on the entire
4 estate. So there's a bubble marginal rate.
5 The first few thousand dollars, up to almost
6 \$100,000 above a million dollars, is taxed at
7 a marginal rate of 41 percent.

8 The Governor's proposal does not line
9 up completely with the provisions of the
10 federal law. You may have even heard this
11 from some people in the estates business who
12 have talked about some aspects of the
13 Governor's proposal that don't have the same
14 treatment of estates that the federal law
15 does now. On balance, however, it can be
16 viewed as a crucial first step toward the
17 ultimate elimination of the tax, which is
18 really the only way New York can be truly
19 competitive in this category with other
20 states.

21 In conclusion, tax policy in New York
22 should be guided by Governor Cuomo's first
23 State of the State message, in which he said:
24 "We have to hold the line on taxes for now

1 and reduce taxes in the future. New York has
2 no future as the tax capital of the nation."

3 And with that, I'll be happy to take
4 any questions you might have.

5 CHAIRMAN DeFRANCISCO: Questions?

6 Senator Krueger.

7 SENATOR KRUEGER: Thank you.

8 So, often we agree on certain things
9 and disagree on other things. So I'll say
10 that I don't necessarily agree with your
11 proposals for continued tax cuts, but I do
12 agree with your concerns about equity and
13 broadening the base and specifically around
14 mandate relief. Which everybody throws
15 around as a word, but I've sat here now with
16 many of my colleagues for two weeks of
17 hearings where localities have come forward
18 pleading for assistance from the state and
19 targeted citizen groups have come forward
20 pleading for additional money from government
21 to meet their needs.

22 And I'm just curious, with this
23 continued discussion of permanent caps and
24 reductions in property tax -- even if you and

1 I might agree property tax isn't the best
2 model for taxing people -- how do we make
3 sure that the things that people are
4 dependent on government providing are
5 actually adequately funded?

6 There was a recent report about
7 enormous overtime costs to the state,
8 seemingly because we don't have adequate
9 staffing to meet the needs at the local and
10 the state level. What's the right answer
11 there?

12 MR. McMAHON: Well, I think the right
13 answer, Senator, is to look at how much we
14 spend compared to other states in all of
15 these categories, and to recognize that you
16 can't say we're not spending enough. You
17 can't say that services are threatened
18 because we just don't devote enough resources
19 to it.

20 The reason we are the nation's most
21 heavily taxed state by most measures, on an
22 all-in basis, is because we spend so much.
23 It kind of reminds me of Hemingway's old
24 crack, because you remember that F. Scott

1 Fitzgerald had said "The rich are different
2 from you and I." And Hemingway said, "Yes,
3 they have more money."

4 New York is different from other
5 states. Yes, we spend more. We spend more
6 on practically everything. And addressing
7 that issue is really the key to this.

8 Now, the Governor has his own idea,
9 he's said what his own idea is on what the
10 cause of this is. I don't necessarily agree
11 with that. He says it's a proliferation of
12 government units. I think that it's
13 basically a function of how we're organized,
14 yes, and also how many people we have working
15 for us and how we compensate them. And that
16 until we're willing to, you know, break into
17 that issue, I think that the mandate relief
18 that localities have asked for really come
19 down to certain key reforms of state law that
20 actually create a level of inflexibility in
21 the local level and employee compensation
22 arrangements, and that those things need to
23 be changed.

24 And it will not automatically lead to

1 improvement. It will allow New Yorkers to
2 hold more accountable their local officials
3 and remove a huge excuse they have for not
4 reducing costs more and living more
5 effectively within their needs.

6 SENATOR KRUEGER: I will refer you --
7 and I would love to follow up with you at
8 another time. The Fiscal Policy Institute
9 put out their economic and fiscal outlook
10 analysis book last week. I'm sure you can
11 get a copy if you don't have one yet. And I
12 thought among the various charts what was
13 particularly interesting was that in
14 historical context, in relationship to
15 population and growth and income, we're not
16 that large in comparison to where we were
17 over time.

18 So I actually -- I really do worry
19 that we aren't providing, through local
20 revenue sharing and other investments at the
21 community level, the kind of money our local
22 governments actually need to sustain
23 themselves, and that it's actually gone down
24 quite a bit, compared to historical numbers,

1 as a portion of the economy.

2 So again, I'm not asking now because
3 my colleagues will throw me off the stage,
4 but I would very much like to continue this
5 discussion about what's reasonable even in
6 relation to historical contexts in this
7 state.

8 MR. McMAHON: Thank you, Senator.

9 SENATOR KRUEGER: Thank you.

10 CHAIRMAN FARRELL: Assemblyman Walter.

11 ASSEMBLYMAN WALTER: Just quickly.

12 You know, even without getting into the issue
13 of spending, how much of these broad-based
14 tax cuts that you're talking about could we
15 enact by just eliminating some of the myriad
16 of tax credits that we provide, and is that a
17 better policy, broad-based tax reduction
18 versus the tax credits?

19 MR. McMAHON: Well, I'm very glad you
20 asked that question, Assemblyman Walter,
21 because the answer is a lot.

22 And I will acknowledge the report that
23 the Senate Republican Conference put out on
24 this issue, which did try to make the same

1 point, that we could begin to make some
2 progress in reducing broad-based tax rates if
3 we would take a second look and a third look
4 at many of these credits.

5 Let me name a couple. There's one you
6 enacted, a temporary so-called family tax
7 credit that was supposed to be in existence
8 for three years that I think should go by the
9 boards, number one. Number two, the motion
10 picture credit. There's a world of criticism
11 out there of credits like that on the state
12 level that I'd be happy to acquaint you with.
13 That's over \$400 million a year fully
14 implemented.

15 The first of the Governor's two
16 commissions, the Tax Fairness Commission,
17 so-called, I think did an excellent job of
18 spotlighting other areas where we could do
19 revenue-neutral adjustments to the tax code.

20 For instance, one of the areas they
21 highlighted was the exemption on small
22 purchases of clothing and footwear. And the
23 suggestion was -- which I think was a good
24 suggestion that you ought to consider. For

1 instance, if you want to make permanent the
2 middle-class tax cuts that you eliminated in
3 December 2011, eliminate that exemption,
4 which studies have found is not particularly
5 effective, it doesn't save people that much
6 money, it doesn't generate that much economic
7 activity, and you could create savings for
8 some of the same people by redirecting that
9 to broad-based tax relief in another tax.

10 There's many more examples of tax
11 credits in the tax code, and especially in
12 the business tax area, that I think you would
13 benefit from eliminating in an effort to
14 bring about broad-based tax relief.

15 CHAIRMAN DEFRANCISCO: Thank you.

16 I'll close, just very quickly. What
17 was the first tax credit that you referred to
18 before the film tax credit? I couldn't hear
19 what you said.

20 MR. McMAHON: The so-called family tax
21 credit, the \$350 credit. Which is temporary.

22 I think the only thing worse than a
23 very narrowly targeted credit that doesn't
24 actually relate to tax liability is one

1 that's temporary, because I don't think it
2 brings any lasting value.

3 CHAIRMAN DeFRANCISCO: Now, last
4 question, you mentioned that a lot of this
5 tax relief is really funded by something
6 that -- some taxes that are temporary. Can
7 you give me an idea of what the full extent
8 of the so-called millionaire's tax credit is,
9 what revenues are received?

10 MR. McMAHON: Based on the numbers in
11 the budget, it appears that the bracket for
12 million-dollar-and-up taxpayers is now
13 raising over \$3 billion a year.

14 CHAIRMAN DeFRANCISCO: Three what?

15 MR. McMAHON: Three billion. Which
16 are returning about \$700 million or so in the
17 rate cuts that were also temporary and, to a
18 lesser extent, the inflation indexing from
19 December 2011.

20 So for instance, as I pointed out,
21 there are ways to finance making permanent
22 the lower-bracket tax cuts, if you wanted to
23 make them permanent. Although I think some
24 further adjustments in the tax code are

1 necessary, because it's actually gotten a bit
2 more stratified and busy than it used to be.

3 And also, again, it's ironic to me the
4 Governor is saying that there's money
5 available to do these tax cuts when the
6 amount of money he says is available
7 approaches the amount you would need to phase
8 out that tax increase.

9 CHAIRMAN DeFRANCISCO: Thank you very
10 much.

11 MR. McMAHON: Thank you.

12 CHAIRMAN FARRELL: Thank you.

13 CHAIRMAN DeFRANCISCO: The next
14 speaker is Brian Sampson, executive director
15 of Unshackle Upstate.

16 On deck, Frederick Floss.

17 MR. SAMPSON: Good morning.

18 CHAIRMAN DeFRANCISCO: Good morning.

19 MR. SAMPSON: Thank you, Chairman
20 DeFrancisco and Chairman Farrell and other
21 members of the joint legislative budget
22 committee, for the opportunity to be here
23 today.

24 You have our written testimony, so

1 I'll refrain from reading it verbatim and
2 simply go through some bullet points. But
3 for those of you who do not know me, my name
4 is Brian Sampson, the executive director of
5 Unshackle Upstate. We're a nonpartisan,
6 pro-business, pro-taxpayer organization
7 dedicated to the revitalization of upstate
8 New York.

9 We're pleased that the 2014-2015
10 Executive Budget continues the recent state
11 trends of limiting state spending increases
12 while also reducing future budget gaps.
13 Unshackle Upstate supports the Governor's
14 continued commitment to limiting state
15 spending growth, and we urge you to do so as
16 well. The fiscal restraint that you have
17 exercised since 2011 has greatly helped the
18 upstate economy. This is a positive trend,
19 and we hope one that will continue this year.

20 With respect to the specific proposals
21 of the Governor's budget, we strongly support
22 the Governor's efforts to provide tax relief
23 for the citizens of upstate New York. We
24 support the proposed elimination of the 18a

1 surcharge for large energy consumers and
2 enhanced phaseout for all other electric and
3 energy consumers. New York's high energy
4 costs have for too long been a large
5 impediment to job growth in upstate.

6 We support the Executive Budget
7 proposal to reduce the corporate tax rate as
8 well as combining the corporate franchise tax
9 with the banking tax.

10 We also support the Executive Budget
11 proposal to raise the state's estate tax
12 threshold to match with the federal law.
13 This change will benefit thousands of
14 family-owned businesses and farms throughout
15 the state. In many cases it will enable the
16 current generation of ownership to transition
17 to the next generation, allowing those
18 businesses to continue farming and running
19 their small business.

20 Manufacturing has long been in decline
21 in upstate New York. We support the
22 elimination of the corporate income tax on
23 upstate manufacturers as well as the proposed
24 20 percent real property tax credit for

1 qualified manufacturers statewide.

2 The Regional Economic Development
3 Council process, while not perfect, has
4 helped bring regional interests together and
5 gotten stakeholders to focus on regional
6 needs and goals. We support the funding for
7 the fourth round of REDC grants in 2014.

8 The Executive Budget proposes
9 expanding the 2011 authorization of the use
10 of design-build as a project delivery method
11 and proposes to extend it to counties,
12 cities, towns and villages with a population
13 of over 50,000. We support this proposal and
14 urge you to expand the coverage of this law
15 even further. Why limit it to communities
16 above 50,000? If a smaller local government
17 believes that design-build is the best way to
18 proceed on a particular building project, it
19 should be allowed to do is.

20 We would also ask that you extend
21 design-build to vertical construction as well
22 as horizontal.

23 We support the extension of the
24 Brownfield Cleanup Program, which is a useful

1 tool to incentivize the private sector to
2 develop abandoned and contaminated
3 properties. However, we are concerned that
4 some of the reforms in the budget are going
5 to be a little bit too restrictive.

6 For example, the proposed vacancy test
7 requirement under which properties would have
8 to have been vacant for at least 15 years, or
9 vacant and tax delinquent for 10 or more
10 years, is too restrictive. We urge you not
11 to set a bar for project participation in the
12 brownfield program too high because it will
13 only discourage developers from taking on
14 those projects.

15 We also urge you to alter the program
16 so that tax credits can be provided for the
17 removal of asbestos.

18 While we support much of what has been
19 proposed in terms of tax relief in the
20 Executive Budget, there's one proposal that
21 we recommend that you reject, the real
22 property circuit tax breaker. While we
23 support property tax relief, we are compelled
24 to oppose the enactment of the property tax

1 circuit breaker. Rather than provide real
2 property tax relief to home and business
3 owners, a circuit breaker instead shifts the
4 burden to the state's taxpayers. This
5 particular circuit breaker proposal also
6 fails to provide any tax relief to business
7 owners.

8 Finally, because New York has
9 significant regional variations in household
10 income, home values and taxes, taxpayers in
11 some parts of the state will receive greater
12 benefits from this program than others.
13 Rather than shift the real property tax
14 burden from homeowners onto state taxpayers,
15 we urge you to take on the property tax
16 affordability crisis directly by providing
17 local governments and school districts with
18 relief from unfunded state mandates.

19 Once again, thank you for the
20 opportunity to speak to you today, and I'm
21 happy to take any questions.

22 CHAIRMAN DeFRANCISCO: Senator
23 Krueger.

24 SENATOR KRUEGER: Thank you. Good

1 afternoon.

2 I've just always wanted to know, your
3 name implies we have inequitable policies for
4 upstate as compared to the rest of the state.
5 Do you actually believe our laws are biased
6 against upstate?

7 MR. SAMPSON: We don't necessarily
8 believe that they're biased. We think many
9 times laws and policies that are passed tend
10 to come up from New York City, which has more
11 wealth to cover the cost of those laws. The
12 simple fact of the matter is in upstate we've
13 lost taxpayers, we've lost jobs, we've lost
14 businesses. We don't have that tax base left
15 to cover the cost of some of those laws.

16 So while we don't necessarily think
17 that there's an interest in the Legislature
18 to enact laws that are to the detriment of
19 upstate, we do believe, though, there are
20 cost factors that aren't necessarily
21 considered.

22 SENATOR KRUEGER: And two of the
23 proposals in the Governor's budget that you
24 support, the corporate franchise and bank tax

1 simplification -- which, by the way, I
2 support the simplification, just not the loss
3 of revenue. But the loss of revenue from
4 that and also the estate tax revenue, that
5 would disproportionately advantage New York
6 City taxpayers. Does that bother you?

7 MR. SAMPSON: No. Because again, when
8 we look at New York State as a whole, we
9 acknowledge the fact that right now there are
10 more taxes being paid to the state coming
11 from the metropolitan area. If we can do
12 something to incentivize some of them to stay
13 here in New York and continue to pay their
14 taxes, that's going to benefit every
15 taxpayer.

16 SENATOR KRUEGER: And I know your
17 organization has been a big advocate of the
18 different tax rates on manufacturing under
19 state law, which I also have to disagree
20 with.

21 Are there other states anywhere that
22 follow this approach to having different tax
23 rates or zero taxes in certain geographic
24 areas and significantly higher tax rates on

1 the same tax in other areas?

2 MR. SAMPSON: You know, we've looked
3 into that, and I think states do things
4 differently. But I have to come back to the
5 fact that here in the State of New York, we
6 did such a thing last year when we passed the
7 START-UP NY program.

8 We support START-UP NY for what it
9 will do for our communities where SUNY
10 institutions are placed. But in that
11 proposal, different regions of the state now
12 won't have taxes and people working there
13 won't pay income taxes. So the state has
14 already taken on that task itself.

15 SENATOR KRUEGER: Fair enough. I'm
16 consistent, because I don't support that
17 proposal either. Thank you very much.

18 MR. SAMPSON: Thank you, Senator.

19 CHAIRMAN DeFRANCISCO: Thank you very
20 much.

21 MR. SAMPSON: Thank you.

22 CHAIRMAN DeFRANCISCO: The next
23 speaker is Frederick Floss, executive
24 director, Fiscal Policy Institute. Sitting

1 in for Frank Mauro, I think -- who's retired
2 several times, I believe. Now permanently.

3 And on deck is Ron Deutsch.

4 MR. FLOSS: Thank you, Mr. Chairman.

5 Chairman DeFrancisco, Chairman

6 Farrell, members of the committee, first let

7 me thank you for allowing me to testify

8 today. And I just ask, instead of reading my

9 testimony, that it all be put on the record.

10 Yes, Frank Mauro I know has testified

11 before you for a number of years. Just so

12 you know, that he is not gone, he has become

13 executive director emeritus at FPI. And I'm

14 sure if you give him a call he'll be more

15 than happy to talk to you. And he's doing

16 well.

17 First, if we look at the Executive

18 Budget's proposal and fiscal plan going back

19 to 2008, we are quickly approaching a decade

20 of austerity. So that if the plans go

21 through as the financial plan provides, by

22 2018 we'll have had 10 years of cuts that

23 have not allowed the economy to grow and have

24 not put people back to work. And I think

1 there are a number of reasons to think about
2 why that's true, and I'd just like to touch
3 on a couple of them, more from an economic
4 standpoint than from the numbers standpoint.

5 First, if we look at the 2014-2015
6 budget, what you'll notice is there are about
7 \$2 billion in cuts and about \$486 million in
8 tax cuts. The tax cuts are not offset, if
9 you think about it from an expansionary
10 perspective, so that the overall budget in
11 2014-2015 is going to be contractionary.
12 What does that mean? The state is actually
13 going to slow the economy down.

14 So we need to sit down and think about
15 whether or not that's appropriate at this
16 time, given that the economy isn't growing.
17 Is this the time that we want to put together
18 this mix of spending cuts on the one side
19 with a very small tax cut on the other side?

20 The second part that may even be more
21 important is this discussion that the
22 Governor has about the 2 percent rule, where
23 he's going to keep not only state spending to
24 2 percent, but with his property tax caps

1 keep the rest of local government at
2 2 percent.

3 There is no magic number to 2 percent.
4 In fact, we see in a lot of legislation in
5 New York over the years that we lock in a
6 specific number and then, as the economy
7 changes, that number gets to be very
8 detrimental. And we can talk about a lot of
9 different laws; I'll leave them alone and let
10 you guess at some of them that I've had to
11 deal with in the past.

12 But the reality is that the
13 projections for the Division of Budget are
14 that personal income is going to grow at
15 about 5 percent and tax revenue is going to
16 grow at 4.3 percent. Even if you wanted to
17 continue to shrink state government, you
18 could do it at a level greater than
19 2 percent, which might actually expand the
20 economy more. So locking ourselves into a
21 2 percent level through 2018, when we don't
22 know what inflation is, could have very
23 dramatic impacts both on state and local
24 spending but also on all of the programs that

1 help needy people in New York.

2 So to be able to sit down and lock
3 yourselves into this concept of 2 percent, I
4 think you need to rethink it. And that might
5 allow you then to be able to get out of the
6 box that we've locked ourselves into, which
7 is having the state actually slow down
8 economic growth.

9 One other thing is we look at this
10 2 percent and realize what's happened since
11 2008. If we go back to that, 75 percent of
12 the counties in New York have seen income
13 inequality expand since 2008. New York has,
14 and you've heard it before, the largest gap
15 between the rich and the poor of any state in
16 the country.

17 But that's not only important, what's
18 more important is it's not an
19 upstate-downstate thing as we've heard so
20 much talk today. It's occurring in all parts
21 of New York State. And it's going to make
22 it, over the long run, much harder for us to
23 come up with solutions to solve our joint
24 problems together. So that taking care of

1 inequality, we really do need to keep that in
2 the back of our mind.

3 Next, the issue of the freeze, if we
4 can just go to the freeze for a second and
5 talk about it specifically.

6 First, it reinforces the differences
7 in inequality because it allows rich
8 districts to get more dollars, because you're
9 using it as a percentage basis, than poorer
10 districts. So you're going to see poorer
11 school districts have less money than richer
12 districts. And because you're giving the
13 money back to individuals and not back to the
14 localities and the programs, what you're
15 really doing is giving people another few
16 pizzas to try to make them feel good without
17 doing real economic reform.

18 And so as my friend E.J. McMahon said,
19 there might be a better way to use this
20 money. And we need to sit down and talk
21 about it and think about that.

22 The other thing is that the Governor
23 talked about 10,500 governments. The reality
24 is if you go back to the census of

1 government, you'll find out that there are
2 only about 1600 villages, towns and cities.
3 The rest of these governments essentially are
4 legal contrivances to allow you, like a
5 lighting district, to charge one part of your
6 county more money than another because they
7 have lights and other part doesn't. There
8 are no jobs, there are no people, it's really
9 an accounting issue.

10 So that I think we're overstating the
11 ability for localities to consolidate. And
12 if that's true, with the 2 percent cap then
13 we've locked these governments into not being
14 able to actually protect themselves. Because
15 all of this hinges on the ability to have
16 meaningful consolidation.

17 One thing I just will note, a number
18 of mayors have talked to me around the state
19 asking about how we might work better on
20 consolidation and some other things. And all
21 of them are now putting off consolidation
22 plans that they would have done this year
23 because they get no credit for it this year,
24 waiting to see what happens. So in fact

1 we're actually going the wrong way on
2 consolidation.

3 I'm on the Control Board for the City
4 of Buffalo. We consolidated our park system
5 with the county. It turned out after two
6 years that in fact it cost us more money in
7 gas and things to have the county drive the
8 trucks and everything around the city, that
9 it was better for the city to take back the
10 parks. And city residents are happier,
11 county residents are happier, and it looks
12 like we're actually saving money. So in that
13 case, and it's just one example, that a
14 one-size-fits-all consolidation program may
15 not work.

16 There are better ways. There are
17 people out in the community, just so that you
18 know -- and I've worked with a lot of them --
19 that are trying to do these kinds of
20 consolidation. A better proposal might be to
21 bring together, as you've done before, groups
22 of people together to work with you to come
23 up with plans that make sense, and talk to
24 people.

1 Let me just turn to the circuit
2 breaker for a second. You've worked for
3 many, many years, many of you here have
4 wonderful circuit breaker proposals. you
5 know, Senator Krueger, Assemblywoman Galef,
6 your proposals actually would make sense.
7 The current proposal doesn't because it gives
8 to too many people who don't really have
9 economic need.

10 What I'd like to say is that if we
11 congestive meaningful relief -- and there are
12 tables in the testimony and in the Fiscal
13 Policy Institute's briefing book that we can
14 talk to you more about that. But the reality
15 is if you want to help banks, do one of the
16 Senator's or Assemblywoman's bills, and
17 you're going to help banks because you're
18 going to stop foreclosures. You're going to
19 build communities, so you're going to help
20 small businesses.

21 So this is not just helping people who
22 are hurt by having a high percentage of their
23 income being paid out in property taxes.
24 It's going to help the communities that

1 they're in, they're going to be poorer
2 communities, and you're going to start to be
3 able to build that.

4 The other thing that it does, and I
5 think that the renter's credit doesn't do, is
6 that the renter's credit doesn't take into
7 consideration rent divided by income. So
8 it's just a broad-based giveaway in money
9 that's not going to help renters and not
10 going to do the same kind of relief that we
11 need, particularly in poorer districts.

12 Very quickly, and I wasn't going to
13 bring this up, but on the REMI model in Ernst
14 and Young's proposal. I do a lot of this
15 kind of modeling, so therefore it bothers me
16 a little bit. There are a number of things
17 that need to be said about it.

18 First is that they don't use a
19 balanced budget approach, so it's like giving
20 you \$2 billion from outside New York State
21 and saying "Gee, isn't that great, we have
22 this wonderful present, it does really good
23 work for us." In order to be able to do
24 that, and the REMI model will allow you to do

1 that, you have to have a balanced-budget
2 approach. So you have to sit down and figure
3 out where you're going to get the \$2 billion
4 from and look at the economic impact of that.

5 The other thing that it assumes is
6 that there is no unemployment, it's a
7 full-employment model.

8 And then the third thing that they put
9 in is that there's no leakage. So that if
10 you're giving this money to corporations that
11 are multistate or multinational, that none of
12 this money is going to leave the state.

13 When you take all of those things into
14 consideration, that model really basically
15 talks about it as being about a wash,
16 depending on how you model those types of
17 things.

18 I'd like to talk a lot more about the
19 estate tax, but I'll leave that for you to
20 read in the testimony. Thank you.

21 CHAIRMAN DeFRANCISCO: Thank you.

22 Senator Krueger has one statement.

23 SENATOR KRUEGER: Appreciate your
24 testimony.

1 On page 6 I was just reading the
2 facts that on the personal income tax freeze,
3 that the way it's designed, the poorest
4 10 percent of school districts will receive
5 only \$91 per pupil in credits to cover the
6 freeze, while those in the richest 10 percent
7 of districts will receive \$794 per pupil.

8 I must admit that I missed that up
9 until reading your testimony, yet another
10 argument against this as a model. I hope my
11 friend from Unshackle Upstate is still here
12 to learn that he should be very opposed to
13 this proposal because clearly this does -- I
14 guess this does discriminate against the
15 poorer upstate districts.

16 Was there a way to do this more
17 equitably?

18 MR. FLOSS: I think there are a number
19 of ways to do this more equitably. One way
20 you might think about is not to give it back
21 as a tax credit but to take over some of the
22 services that you're now putting on cities,
23 so that they're able to then pick up the cost
24 of the rest of their businesses. So you have

1 to look at this as a pot of money you can use
2 in a number of different ways.

3 And so that if we're worried about,
4 for example, universal pre-K, a lot of school
5 districts are already putting money into
6 universal pre-K. By doing this, they're
7 going to actually have to cut back on
8 universal pre-K in the one place while you're
9 trying to put money in on the other hand.
10 You have one hand not knowing what the other
11 hand is doing, and that gives you very
12 perverse impacts on all of this.

13 And I think that there are a number of
14 different ways, and we can talk about them,
15 on how you might better use the money to be
16 more equitable and balance out the impacts on
17 localities.

18 SENATOR KRUEGER: And even though I
19 said just one, it's a follow-up question. Do
20 you or someone else have an actual chart
21 where we could see what districts are getting
22 what of that \$1.8 billion over the next three
23 fiscal years?

24 MR. FLOSS: We have done some of the

1 charts, and Bob Lowry has the count. I think
2 he does it by school district. So we could
3 get those to you, yes.

4 SENATOR KRUEGER: I'd appreciate
5 getting that. We might all. Thank you very
6 much.

7 CHAIRMAN DeFRANCISCO: Thank you very
8 much..

9 MR. FLOSS: Thank you.

10 CHAIRMAN DeFRANCISCO: The next
11 speaker is Ron Deutsch, executive director,
12 New Yorkers for Fiscal Fairness, to be
13 followed by the featured speaker and last
14 speaker, John Whiteley.

15 MR. DEUTSCH: Good afternoon; I can
16 say that now. Thank you, Chairman Farrell
17 and Chairman DeFrancisco and honorable
18 members of the Legislature. It's a privilege
19 to be with you today on this first Moral
20 Monday of February.

21 I wanted to just briefly touch on the
22 fact that a number of folks were here this
23 morning that didn't get a chance to speak,
24 but they wanted to talk about the fact that

1 we live in a state that has currently the
2 most unequal distribution of income, the
3 greatest income inequality in the nation. We
4 also live in a state that has record child
5 poverty rates in many of our upstate cities.
6 We also live in a state that has record
7 hunger and record homelessness.

8 So I believe the folks here this
9 morning wanted to send a message that this
10 isn't a moral budget in the sense that we're
11 going to be giving tax cuts to millionaires,
12 billionaires and Wall Street banks while at
13 the same time so many people are suffering in
14 New York.

15 So despite the fact that we've had
16 multiple years of austerity budgets and we
17 have more four more to come, I think the
18 reality is we can ill afford tax cuts for the
19 wealthy at a time when we have these great
20 problems which are also causing an economic
21 drag in New York State.

22 So how do we justify these tax cuts to
23 the wealthiest New Yorkers, is my question to
24 you. The estate tax reductions. We're

1 looking at increasing the threshold from the
2 current million dollars to the federal
3 \$5.25 million, while cutting the rate from 16
4 to 10 percent, a significant 40 percent cut
5 in that top rate.

6 As the Governor points out, there's
7 only about 3900 estates in New York that are
8 impacted by this estate tax cut, whereas so
9 many more are impacted by poverty, by hunger,
10 by homelessness. The reality of the
11 situation is that of these 3900 families,
12 they're going to get about \$800 million in
13 tax relief when this is fully phased in by
14 2018.

15 Now, who is that \$800 million going to
16 go to? The vast majority of that
17 \$800 million is going to go to the richest
18 200 or so estates in New York State, with
19 estates valued at over \$10 million. They'd
20 reap about \$1.5 million benefit per estate.
21 So the reality is the beneficiaries of this
22 tax cut will be the wealthiest New Yorkers.

23 Now, we hear a lot about the Governor
24 calling this the "move to die" tax, which I

1 would suggest is right out of the Paul Ryan
2 playbook. But I would say that people aren't
3 moving to die, and the Governor's own experts
4 on the Tax Commission, and in particular the
5 report developed by Marilyn Rubin and
6 Don Boyd indicated that there is not this
7 migration pattern of people moving simply to
8 avoid the estate tax.

9 Not to mention, we should also point
10 out that the number of millionaires in
11 New York State is growing, it is not
12 shrinking. So people are doing quite well.

13 The other piece of this is the
14 reduction -- or the elimination, rather, of
15 the dedicated bank tax. Estimates are
16 somewhere in the area of \$200 million that
17 this will cost. We think it will likely cost
18 more than that over a period of time. But
19 the beneficiaries of this are obviously some
20 of the biggest Wall Street banks in New York.

21 Is this a time when we need to be
22 giving tax cuts to big banks when so many
23 people are struggling? So I think that
24 that's part of the moral message.

1 And if you want to provide tax cuts to
2 banks, then it should be offset, as was done
3 in the Solomon Commission report, by looking
4 at ways to do it in a revenue-neutral manner.
5 And certainly the billions of dollars in tax
6 credits that we're putting out the door on an
7 annual basis should be curtailed, there
8 should be more transparency and
9 accountability attached to those tax credits,
10 and we should be better stewards of the
11 public's money when it comes to those type of
12 tax credits.

13 So I would urge you -- I'm sure you're
14 going to hear from others, but there's a bill
15 sponsored by Assemblyman Ryan called the Jobs
16 Act that I would suggest you take a strong
17 look at, because that's something that is
18 desperately needed here in New York to
19 restore some sense of accountability to many
20 of these tax credits.

21 And despite the Governor's assertion
22 that you can't beat zero when it comes to
23 taxes, in New York you will be able to beat
24 zero, in fact, because a billion dollars of

1 those are refundable tax credits, so many
2 companies could in fact beat zero.

3 The other piece of this puzzle is the
4 property tax freeze, which we do not support
5 for numerous reasons. I will agree with my
6 friend from the NFIB that the property tax
7 freeze is not the way to go. We think (a)
8 it's unwieldy. What if your town goes over
9 the cap and your school budget does not? Do
10 you get your property tax freeze rebate check
11 or do you not? That remains to be seen. So
12 a lot of questions are involved there.

13 It is also unfair in the sense that
14 wealthier school districts will see larger
15 benefits, and also wealthier homeowners will
16 see larger benefits under this freeze.

17 And the other problem is the relief is
18 tied to actions beyond the control of the
19 individual who's paying the taxes. So it's
20 tied to the property tax cap and whether or
21 not your municipality stays under that. So
22 we see that as a problem as well.

23 So just so you don't think there is
24 nothing in the budget that I don't like, I'd

1 like to talk a little bit about the circuit
2 breaker and the renter credit.

3 I support a circuit breaker mechanism
4 as a means of targeted tax relief. There's
5 currently 700,000 households in New York
6 right now with incomes under \$100,000 a year
7 that pay more than 10 percent of their income
8 in property taxes. There's 250,000
9 households with incomes below \$50,000 that
10 pay more than 20 percent of their income in
11 property taxes. A well-designed, targeted
12 circuit breaker will provide tax relief to
13 those individuals. That is what is needed
14 right now.

15 We have a number of people here on the
16 dais -- Assemblywoman Galef, Senator Krueger
17 and others -- who have supported circuit
18 breakers in the past and who have circuit
19 breakers that I think are designed far better
20 than what the Governor is proposing right
21 now.

22 Oddly enough, Andrew Cuomo, candidate
23 in 2014, his circuit breaker is much
24 different than Andrew Cuomo, candidate in

1 2010. He supported actually the
2 Krueger-Englebright bill in his policy
3 documents as the correct circuit breaker. I
4 guess so I support Andrew Cuomo 2010 over
5 Andrew Cuomo 2014 at this point -- in more
6 ways than one, I'm sure.

7 The other piece to this puzzle is we
8 don't want a watered-down circuit breaker, a
9 circuit breaker where we give a little bit to
10 everybody. I think we've done that to death
11 in New York State, quite honestly. You know,
12 we have these \$350 family rebate checks, a
13 little something for everybody. The Governor
14 is proposing a circuit breaker that again
15 provides a little something for everybody.

16 The reality is some people need more
17 and some people need less in order to deal
18 with their tax burden. So we hear a lot
19 about tax burdens in New York, but in reality
20 it's the property tax that's the most
21 burdensome for middle and moderate-income
22 families in our state, and that's what we
23 need to address.

24 Long term, we need to address the

1 state and local tax structure, without
2 question, because the state is providing less
3 in terms of support than it used to,
4 certainly. School aid as a percentage of
5 overall state aid is at a 65-year low. So
6 people should be aware of that as well. So
7 when we scratch our heads wondering why are
8 municipalities across the state and school
9 districts having such a hard time making ends
10 meet, we should realize that we've been
11 giving them short shrift over the years.

12 And you may or may not agree with
13 that, but the reality is the circuit breaker
14 is a targeted effective mechanism and it will
15 keep money in our communities, as opposed to
16 money going out of communities. Some people
17 will call it a tax shift. I would suggest
18 that the estate tax cuts are even more of a
19 tax shift in the wrong direction. But I
20 would also suggest that if there's been a tax
21 shift, it's been that we've been shifting the
22 burden onto the local level from the state
23 level. And that's the shift that we need to
24 reverse.

1 So you'll have, you know, the counties
2 and the mayors come and say "We need more
3 money." They're absolutely right. They've
4 been short-changed in revenue sharing. I'll
5 give you a for instance. In 1980, revenue
6 sharing -- that's not adjusted for
7 inflation -- was greater than it is scheduled
8 for 2013. It was some \$820 million in 1980.
9 In 2013, we're looking at \$815 million. So
10 if you adjust that for inflation, revenue
11 sharing is actually down from 1980 by about
12 75 percent.

13 So let's not scratch our heads and
14 wonder why municipalities are having such a
15 hard time, you know, when they have to
16 address many of the mandated services that
17 are put to them by New York State.

18 So I have nine seconds left, and I
19 will yield that back to you. Thank you.

20 CHAIRMAN DeFRANCISCO: Thank you.

21 CHAIRMAN FARRELL: Thank you.

22 CHAIRMAN DeFRANCISCO: Thank you very
23 much. Appreciate it.

24 Now, the featured speaker, who we've

1 all been waiting for this morning and
2 afternoon, John Whiteley, legislative affairs
3 officer, New York State Property Tax Reform
4 Coalition.

5 MR. WHITELEY: Good afternoon,
6 Chairman DeFrancisco, Chairman Farrell, and
7 distinguished members. Pleasure to be here
8 again for many of you.

9 CHAIRMAN DeFRANCISCO: Let me ask you
10 a question. It just dawned on me, you were
11 here before. Do you have any testimony
12 different from what you testified before?

13 MR. WHITELEY: Yes, it is, sir. There
14 will be a lot of similarities, but there's
15 some different issues here and I go into some
16 more detail on some of the aspects.

17 CHAIRMAN DeFRANCISCO: Okay, thank
18 you.

19 MR. WHITELEY: Thank you.

20 And for the record, I am John
21 Whiteley, legislative affairs officer of the
22 New York State property tax reform coalition.
23 We're a bipartisan volunteer advocacy group
24 that represents the interests of residents

1 throughout the state who seek property tax
2 relief and reform via state legislation.

3 My focus will be the circuit breaker,
4 which has always been the coalition's primary
5 goal for property tax relief. Before getting
6 to that, let me just say that our long-term
7 objective is to gradually reduce the
8 continuing overuse of the archaic and
9 inequitable property tax as a means of
10 funding services in this state, and to
11 replace it with a gradual but significant
12 increase in state funding, especially for
13 schools, more in keeping with the state's
14 constitutional obligations and our
15 21st-century economic realities.

16 The property tax hits hardest at the
17 middle class, contributing to its decline
18 amid a level of income inequality not seen
19 since the eve of the Great Depression, with
20 our state at the top of the list.

21 As the Governor commendably points
22 out, we now collect some \$50 billion in
23 property tax, compared to \$40 billion from
24 the income tax. The underlying need for

1 systemic, permanent funding reform and how to
2 get there should be on the minds of all of
3 us, regardless of current or future fiscal
4 constraints, as we consider this budget and
5 the future of our state.

6 Now to the circuit breaker, whose sole
7 purpose is to give those residents most
8 overburdened by property taxes a fighting
9 chance to keep their homes while we try to
10 work on a long-term transition to more
11 equitable taxation.

12 We are grateful to Governor Cuomo for
13 recognizing the continuing severity of the
14 property tax burden and the importance of the
15 circuit breaker as a way to alleviate it.
16 His welcome initiative finally gives us some
17 hope for the long-overdue relief that only a
18 circuit breaker can provide. Unfortunately,
19 the circuit breaker he has proposed needs a
20 lot of improvement.

21 With help from colleagues I've just
22 completed, on behalf of the coalition and the
23 omnibus consortium, a working paper with our
24 detailed critique of the property tax package

1 in general and the circuit breaker in
2 particular. Since a critique begs an
3 alternative proposal, we've included that as
4 well, and that paper is attached for you in
5 your packet.

6 I'll briefly summarize here the four
7 main problems we find with the circuit
8 breaker and the rest of the package and then
9 discuss briefly the alternative proposal.

10 First of all, the structure of the
11 circuit breaker is flawed. This circuit
12 breaker is not targeted in this case to those
13 most overburdened. And most unfortunate
14 under the formula, the greater one's
15 overburden, the less meaningful the benefit.

16 How do we explain to those who are
17 paying 10 or 20 percent or more of their
18 income in property tax on their home -- those
19 truly overwhelmed through no fault of their
20 own -- that in most cases they will get no
21 more relief than someone paying 3 percent?
22 We're not complaining about the \$1 billion
23 total in the bill, although more will be
24 needed as soon as possible. The \$1 billion

1 could be a credible beginning if distributed
2 rationally.

3 With the \$3.5 billion STAR program in
4 place as the state's flagship relief system
5 guaranteeing something to virtually everyone,
6 this additional funding should be targeted to
7 those truly overburdened. And formulas used
8 in the Krueger-Engelbright bill and the
9 Galef-Little bill are models for how this may
10 be done.

11 And we offer a suggestion. The
12 proposal does not include an extended prior
13 residency requirement, such as the five years
14 prescribed in both the Krueger-Engelbright
15 and Galef-Little bills. It should, and the
16 attached paper explains why. And the savings
17 could help make the formula more equitable to
18 those most overburdened.

19 Second, renter tax relief should be
20 integrated into the circuit breaker. We
21 commend the Governor for his interest in
22 extending relief to overburdened renters as
23 well as homeowners through a renter tax
24 credit, but we urge that the tax credit be

1 structured as an additional component of the
2 circuit breaker, as is done in most of the 30
3 or so states with circuit breakers details
4 are in the attached paper.

5 And third, why are we having a
6 temporary property tax freeze, which further
7 delays the already overdue circuit breaker?
8 We question the policy merit of the proposed
9 two-year property tax freeze for homeowners,
10 seemingly designed mainly as a way to jawbone
11 local governments and school districts into
12 cost savings through consolidation or sharing
13 services. And while such cost savings are
14 important, we wish at least equal attention
15 would be paid to the continuing costs of
16 unfunded state and federal mandates.

17 If we're talking about property tax
18 relief, the long overdue circuit breaker is
19 clearly a more urgent need and should be
20 fully funded immediately. With resources
21 still scarce, it's unreasonable to delay
22 fully funding the need-based circuit breaker
23 to give additional tax breaks to all STAR
24 homeowners.

1 And finally, fourth, the circuit
2 breaker should not be linked to the tax cap.
3 Some of our most struggling property
4 taxpayers live in communities where a solid
5 majority of the residents are either
6 relatively affluent or otherwise willing and
7 able to support spending and tax levels which
8 are forcing more and more of the struggling
9 minority out of their homes. And the smaller
10 that minority, the worse off they are without
11 the lifeline of a circuit breaker.

12 The reality is that, in virtually any
13 community, those taxpayers struggling the
14 most -- who by definition most need a circuit
15 breaker -- have no control over the
16 demographics of the community and will likely
17 never be able by themselves to achieve the
18 40 percent voting strength needed to block an
19 override of the tax cap. Losing their circuit
20 breaker lifeline due to an override they
21 can't defeat would be an unconscionable
22 injustice and worsen their situation.

23 Some may believe a circuit breaker
24 would drive up local budgets without a cap in

1 place, perhaps based on the STAR experience.
2 The circuit breaker is structured very
3 differently from STAR, and for many reasons
4 has much less chance of fostering "budget
5 creep". And there are a lot of details in
6 the attached paper.

7 So what's our solution? And I'm not
8 going to read this whole page, because you've
9 got all the details. It's the last four
10 pages of the paper.

11 But basically what we would do is
12 eliminate the proposed freeze and we would
13 incorporate the renters relief into the
14 circuit breaker as a component of the circuit
15 breaker. And we would also like to consider
16 taking what's called the family rebate check,
17 the one that comes just before election time,
18 the \$350 check, and incorporate that into the
19 circuit breaker, which would help those who
20 are most overburdened. We're already
21 spending \$3.5 billion on STAR. This extra
22 \$410 million would make a significant
23 addition to the circuit breaker.

24 Whether we do that or not, we would

1 take the circuit breaker that's the
2 Governor's proposal and reconfigure that
3 funding and make it a targeted circuit
4 breaker -- so just the opposite of what this
5 is -- for the same amount of money. And it
6 would -- so that you'd have that, you'd be
7 able to have the circuit breaker in place
8 more quickly without having the freeze.

9 And what you'd have, the bill that
10 we've come up with is something pretty close
11 to Senator Krueger's bill. As the previous
12 speaker said, that happens to be the bill
13 that Governor Cuomo cited in his campaign in
14 2010 as a model for circuit breaker relief.

15 Basically, it would limit eligibility
16 the first year or two of that; it's a
17 phased-in bill to kind of save money at the
18 beginning. It would limit it to \$100,000 and
19 a 9 percent threshold, and those would be --
20 that income would be increased over time, and
21 the threshold would be lower. But it would
22 catch those who are most overburdened, and
23 they would get more. Using, you know, the
24 same amount of money they would get more

1 benefit. You just wouldn't have as many
2 beneficiaries.

3 So we look forward to talking with our
4 legislative friends who have been so
5 supportive in sponsoring and cosponsoring
6 bills to try to fine-tune a proposal that
7 would really help those who need it the most.

8 Thank you very much for your
9 attention.

10 CHAIRMAN FARRELL: Thank you.

11 SENATOR KRUEGER: Thank you.

12 CHAIRMAN DeFRANCISCO: Thank you very
13 much. That concludes the budget hearing on
14 Taxes.

15 The Economic Development budget
16 hearing will start at 1 o'clock. Enjoy your
17 half-hour.

18 (Whereupon, the budget hearing concluded
19 at 12:28 p.m.)

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