

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

2 -----

3 JOINT LEGISLATIVE HEARING

4 In the Matter of the
5 2015-2016 EXECUTIVE BUDGET
ON TAXES

6 -----

7 Hearing Room B
8 Legislative Office Building
Albany, New York
9 February 9, 2015
9:33 a.m.

10

11 PRESIDING:

12 Senator John A. DeFrancisco
Chair, Senate Finance Committee
13
14 Assemblyman Herman D. Farrell, Jr.
Chair, Assembly Ways & Means Committee

15 PRESENT:

16 Senator Liz Krueger
Senate Finance Committee (RM)
17
18 Assemblyman Robert C. Oaks
Assembly Ways & Means Committee (RM)
19
20 Assemblyman Michael J. Cusick
21
22 Assemblywoman Nicole Malliotakis
23
24 Senator Diane Savino
Assemblyman Fred W. Thiele
Senator Thomas D. Croci
Assemblyman Raymond W. Walter

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1 2015-2016 Executive Budget
Taxes
2 2-9-15

3 PRESENT: (Continued)

4 Senator Simcha Felder
5 Assemblyman David Weprin

6 Assemblyman Charles D. Lavine
7 Senator Jesse Hamilton

8

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12	Amanda Hiller Deputy Commissioner/Counsel		
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1 CHAIRMAN FARRELL: Good morning.
2 Today we begin the seventh in the series -- I
3 like that, the seventh in the series of
4 hearings conducted by the joint fiscal
5 committees of the Legislature regarding the
6 Governor's proposed budget for the fiscal
7 year 2015-2016. The hearings are conducted
8 pursuant to Article 7, Section 3 of the
9 Constitution and Article 2, Section 31 and
10 32A of the Legislative Law.

11 Today the Assembly Ways and Means

12 Committee and the Senate Finance Committee
13 will hear testimony concerning the budget
14 proposal for taxes.

15 I will now introduce the members of
16 the Assembly and Senator DeFrancisco,
17 chairman of the Senate Finance Committee,
18 will introduce members from the Senate.

19 With me today is Assemblyman Cusick
20 and Assemblyman Oaks.

21 Senator?

22 CHAIRMAN DeFRANCISCO: Senator
23 Krueger, the ranking member of the committee,
24 as well as Tom Croci and Diane Savino,

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1 they're here as well.

2 CHAIRMAN FARRELL: Good morning.

3 EXEC. DEP. COMMISSIONER MANION: Good
4 morning, Chairman DeFrancisco, Chairman
5 Farrell, and members of the Senate Finance
6 and Assembly Ways and Means Committees.

7 My name is Nonie Manion. I'm the
8 executive deputy commissioner at New York
9 State Department of Taxation and Finance. I
10 have with me today Amanda Hiller, who is our
11 general counsel.

12 I'm pleased to have the chance to
13 highlight for you today the tax components of
14 Governor Cuomo's Opportunity Agenda, which
15 sets forth a tax policy built upon three main
16 goals, the first being make it easier for
17 families and individuals to live and thrive

18 in New York State. Second, make it easier
19 for businesses to flourish and create jobs in
20 New York State. And third, set and maintain
21 a level playing field featuring simplified
22 tax compliance for everyone.

23 We began making New York State a more
24 affordable place to live in 2011 by

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1 implementing the real property tax cap. The
2 cap turned around runaway growth, which was
3 averaging 5.3 percent annually and had been
4 as high as 7.7 percent. Newly empowered
5 voters in 84 percent of local governments and
6 97 percent of school districts have ensured
7 property tax cap compliance.

8 The property tax freeze credits have
9 helped drive cap compliance by offsetting
10 property tax increases in cap-compliant
11 jurisdictions. We're finalizing the
12 distribution of \$200 million in credits to
13 2.5 million homeowners, and the three-year
14 program will ultimately put \$1.5 billion back
15 in the pockets of New Yorkers.

16 The Executive proposal will deliver
17 another \$1.7 billion in relief to New Yorkers
18 through a new real property tax credit, and
19 1.3 million taxpayers will see an average
20 benefit of \$950 when the program is fully
21 phased in.

22 Last fall we also distributed more
23 than \$360 million in advance refunds as part

24 of the family tax credit program, which

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1 provided 350 checks to more than 1 million
2 families. Together these programs are
3 returning billions of dollars to New Yorkers
4 at a time they need it most.

5 The Executive Budget also makes
6 New York State a more attractive place to do
7 business. It expands upon the business tax
8 reforms enacted in last year's state budget
9 by reducing the corporate income tax rate to
10 2.5 percent for small companies.

11 We also help our burgeoning craft
12 beverage and agricultural industries. The
13 proposal extends the current tax exemption
14 for wine tastings to cover similar tastings
15 conducted by breweries and farm distilleries,
16 and ensures fuel used in farm activities is
17 eligible for refunds under the petroleum
18 business tax exemption.

19 All of these initiatives depend on
20 taxpayers meeting their obligations in a
21 complete and timely manner, and we aim to
22 establish a fair and level playing field on
23 which they can do so.

24 The Governor's budget empowers the

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1 Tax Department to recover inappropriately
2 claimed STAR exemptions and benefits.

3 It also expands upon the enormously

4 successful driver's license suspension
5 program that was initiated in 2013, by
6 lowering the threshold of warranted tax
7 delinquencies from \$10,000 to \$5,000. Last
8 year, facing the risk of driver's license
9 suspensions, thousands of New York taxpayers
10 came forward to settle their liabilities.
11 The program has generated \$125 million in
12 collections since its inception.

13 Taxpayers currently fund a
14 \$127.4 million program that purchases free
15 excess medical malpractice insurance for
16 physicians and dentists. The budget proposes
17 to withhold this taxpayer-funded privilege
18 from physicians and dentists delinquent in
19 their tax obligations.

20 The plan institutes a tax clearance
21 for a number of business and professional
22 licenses, and prohibits state agencies from
23 hiring employees who have not passed a tax
24 clearance.

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1 We're using data to better target
2 enforcement and ensure a level playing field
3 among privileged licensees. The Department
4 operates one of the most sophisticated data
5 analytics systems in the world of taxing
6 authorities, which helps us focus enforcement
7 on non-compliant taxpayers.

8 In 2011, the department established
9 our Fraud Analysis and Selection Team -- we

10 call it FAST. This has uncovered more than
11 1,500 distinct fraudulent refund schemes,
12 saving New Yorkers \$260 million. The
13 Federation of Tax Administrators awarded the
14 department its 2014 Award for Outstanding
15 Technology Application for our fraud
16 prevention strategy.

17 We're more user-friendly today than
18 ever before. Taxpayers can now conduct
19 virtually all of their business with the
20 department online. We offer 80 different
21 services through taxpayers' online accounts,
22 which are now used by approximately
23 2.2 million taxpayers. And e-filing is on
24 the rise, with nearly 90 percent of

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1 individuals filing electronic returns in
2 2014.

3 I'm energized and excited for the
4 future. Governor Cuomo's Opportunity Agenda
5 includes a well-balanced tax agenda that will
6 make New York State more affordable for
7 individuals and families, more hospitable to
8 job-creating businesses, and more fair for
9 everyone. I look forward to administering
10 this bold package, and promise we'll continue
11 to do so according to the very high standards
12 that we've established for ourselves. I'm
13 eager to hear your ideas and input, and I
14 look forward to taking your questions.

15 CHAIRMAN FARRELL: Thank you.

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Mr. Cusi ck.
ASSEMBLYMAN CUSI CK: Thank you,
Mr. Chair man.
Commi ssi oner, thank you for testi fyi ng
here today.
I j ust have a questi on on the
Educati on Investm ent Tax Credit proposal by
the Govern or. Cou ld you j ust explai n a
litt le bit about it? Becau se I thi nk there's

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some confusi on out there from some of the
opponents of thi s. Cou ld you j ust clari fy
what thi s tax credit is and what it wou ld do?

EXEC. DEP. COMMI SSI ONER MANI ON: Yes,
the tax credit encourages individuals and
corporations that wou ld like to donate to
educati onal process. And it can be for
publi c or nonpubli c educati on.

The role the Tax Department plays in
it is to ensure that people that are taking
the credit are taking up to the \$1 million
per individual or per business and that we
don't exceed the \$100 million cap.

So the way the credit works is the
individual or business that's making the
donati on gets a credit for 75 percent of that
amount.

People will apply to be able to take
that credit. And initially the department
will be looking at those applications, taking
them all in at once. And then if it goes

22 over the \$100 million cap for the state, what
23 we'll do is we will be allocating among all
24 the applicants and determining how much they

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1 can take.

2 If it doesn't go over the \$100 million
3 cap, there will be additional applications
4 that we'll receive, and it will be on a
5 first-come, first-served basis.

6 ASSEMBLYMAN CUSICK: Okay. And just
7 to be clear, the tax credit goes towards the
8 person who donates, not to the people who
9 send their children to the school.

10 EXEC. DEP. COMMISSIONER MANION:
11 That's right. The tax credit is for the
12 person that donates. It encourages the
13 philanthropic activity of donating to
14 education.

15 ASSEMBLYMAN CUSICK: And the
16 \$100 million threshold is lower than the
17 \$300 million that was presented by the
18 Legislature in the bills; correct? This is
19 lower, the \$100 million.

20 EXEC. DEP. COMMISSIONER MANION: The
21 budget is a \$100 million, yes.

22 ASSEMBLYMAN CUSICK: Okay. Thank you.
23 Thank you, Commissioner.

24 Thank you, Mr. Chairman.

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1 CHAIRMAN DeFRANCISCO: Senator Savino.

2 SENATOR SAVINO: Thank you. Thank

3 you, Senator DeFrancisco.

4 I have a couple of questions. I'm
5 going to kind of jump around a little bit.
6 But I wanted to focus on -- one of the things
7 that the Governor has talked about is
8 reducing the property tax burden. He's
9 focused a lot over the years, we've done the
10 property tax cap, now he's discussing the
11 idea of a circuit breaker, which I think in
12 the past the Senate had passed numerous
13 times. So we're happy to see that.

14 But I'm a little confused about how
15 it's going to treat the residents of New York
16 City, of which I happen to be one of those
17 homeowners. So if you could kind of walk me
18 through how a New York City homeowner and a
19 renter will be treated under this
20 circuit-breaker proposal.

21 EXEC. DEP. COMMISSIONER MANION: In
22 the current real property tax credit, a New
23 York City homeowner or renter would be
24 treated by looking at how much their property

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1 tax is and comparing that to what they've
2 paid and what their income is.

3 So if they've paid greater than
4 6 percent, and their income is under a
5 certain dollar threshold, they would be
6 getting a credit, they would be allowed a
7 credit.

8 The way it's working for renters is we

9 are figuring that 13.75 percent of the rent
10 is for the property taxes. So if a person is
11 paying -- whatever the rent is, 13.75 percent
12 is assumed to be part of the property tax.
13 So we would look at that amount and compare
14 it to their income to determine if they would
15 be eligible for this credit.

16 SENATOR SAVINO: Do you expect to take
17 into consideration the mix of taxes that
18 New York City residents pay? Because just --
19 as you know, our property taxes are lower
20 compared to suburban areas, but we also pay
21 personal income tax in New York City. Is
22 that going to be taken into consideration
23 when you determine eligibility?

24 EXEC. DEP. COMMISSIONER MANION: The

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1 New York City taxing structure is different
2 from the rest of the state, and that's been
3 recognized through the different programs
4 that deal with the property tax. Initially
5 when the STAR program was put in place, the
6 actual income tax was reduced in New York
7 City. There's been a real property tax
8 credit, there's been a circuit breaker, so
9 there have been a number of things that have
10 been put in place to make sure that New York
11 City is included.

12 SENATOR SAVINO: My understanding,
13 though, is under the current proposal
14 New York City homeowners, by and large, are

15 not going to be able to take advantage of
16 this because we're not going to pay enough of
17 a percentage of our income in property taxes.

18 So I would just hope that we might
19 find a way to take into consideration the
20 increased tax burden that New York City
21 residents pay. I mean, we're 43 percent of
22 the population of the State of New York, and
23 we're not getting much out of this. So I'd
24 just say we should consider expanding it to

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1 include personal income tax as part of our
2 overall tax burden when we make
3 determinations about the circuit breaker.

4 One of the other questions I had, if
5 you're a renter in New York City and you're
6 living in like New York City Housing
7 Authority, where they don't pay property
8 taxes, how will a renter who lives in either
9 subsidized housing or a property that does
10 not currently pay property taxes, how would
11 they become eligible? Or are they eligible?

12 EXEC. DEP. COMMISSIONER MANION: I
13 believe they would be eligible. There's
14 nothing in the bill that would preclude them
15 from being eligible.

16 DTF GENERAL COUNSEL HILLER: If I can
17 just expand upon that, the real property tax
18 credit is structured to provide a benefit for
19 homeowners for their property taxes, and it
20 also provides a benefit for renters by

21 essentially having a calculation of a
22 property tax equivalent. Because renters are
23 paying the property taxes of their landlords
24 through their rent, so a portion will be

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1 taken to provide for that credit.

2 SENATOR SAVINO: That I understand.
3 What I'm asking, though, is in properties
4 that don't currently have a property tax
5 bill, because they're exempt, how would you
6 calculate the value of the benefit to people?

7 So in a traditional apartment building
8 a landlord has to pay New York City property
9 tax. And a percentage of the rental roll is
10 devoted to a portion of that property tax.
11 That's how you determine rent.

12 But if you're living in a building
13 that doesn't pay property tax, that's the
14 question I'm asking. And maybe just --

15 DTF GENERAL COUNSEL HILLER: The
16 calculation of the rent equivalent isn't
17 related to the property tax bill of the
18 property. It's strictly for renters whose
19 rent equivalent is over the income threshold.

20 SENATOR SAVINO: All right.

21 I just want to move on. I have one or
22 two more questions on a different issue.

23 I notice also the Governor is talking
24 about this employee training incentive

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1 program tax credit, because we want to
2 incentivize employers to prepare our
3 employees for, you know, changing. How will
4 we determine what programs would be eligible?
5 What can we do to prevent fraud? I'm
6 concerned about employers who just claim that
7 they're sending their employees for programs.
8 Who's going to supervise these programs? Are
9 they going to be licensed by the state, are
10 they going to be approved by State Ed, by the
11 Labor Department? How do you envision this
12 working?

13 EXEC. DEP. COMMISSIONER MANION: It's
14 the Department of Labor that would be looking
15 at those programs to make sure that they're
16 meeting the requirements.

17 SENATOR SAVINO: It would have been
18 nice if they had told us about that the other
19 day when they were here.

20 But in any event -- do I have another
21 question?

22 CHAIRMAN DeFRANCISCO: I don't think
23 so.

24 SENATOR SAVINO: No, I don't think so,

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1 John. (Laughing.) I might have one later if
2 it comes back to me. Thank you very much.

3 CHAIRMAN FARRELL: Thank you.

4 Mr. Oaks.

5 ASSEMBLYMAN OAKS: Yes, thank you.

6 Last year with the property tax freeze,

7 municipalities complied, there was a rebate
8 check that went out. We are still hearing
9 from some individuals saying they haven't
10 received that.

11 So reasons for the delay over this
12 last year?

13 EXEC. DEP. COMMISSIONER MANION: I'm
14 pleased to report that the last of the checks
15 are going out right now.

16 Some of the reasons for the delay is
17 it being the first year of the program and we
18 had to receive information from many
19 different school districts throughout the
20 state, there are a number of them that use
21 the standard format, and we were able to
22 provide the analysis to make sure we were
23 issuing the right amount of check to the
24 right person in a pretty expedient way with

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19

1 the people that had standard formats.

2 Others, the formats are a little
3 different. And then there are some other
4 localities where they don't actually do their
5 rolls until later. So we were receiving some
6 files as late as the end of November,
7 December. And then the due diligence that
8 was required to make sure that we were paying
9 the right amount of the freeze check and
10 making sure it went to the right individual
11 took us a little longer in this first year.
12 We learned a lot. We know that we're going

13 to be working with the different locals and
14 the different school districts to get a more
15 standard format for the files so we can do it
16 better in this next year.

17 ASSEMBLYMAN OAKS: So your confidence
18 for the second year of that is that we should
19 have that more in a timely fashion that
20 people will be receiving them?

21 EXEC. DEP. COMMISSIONER MANION:
22 That's our objective, definitely our
23 objective.

24 And as you know, in the second year we

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1 are not only required to be looking at the
2 school taxes, we also have to be comparing
3 the local taxes. And there are a lot of
4 different jurisdictions within those local
5 taxes, so we have many more files to be
6 working with. We're using our lessons
7 learned in the first year, and we'll be
8 working with the locals and the schools much
9 more up-front, checking the files as they
10 come in and going back to them and asking for
11 some correction so that we can do it in a
12 much quicker way.

13 ASSEMBLYMAN OAKS: In this budget
14 there's reductions proposed for the corporate
15 franchise tax for qualifying businesses. And
16 do you have a sense, one, of the number of
17 businesses that operate in New York under the
18 corporate franchise tax versus personal

19 filings? Do we have those numbers?
20 EXEC. DEP. COMMISSIONER MANION: The
21 number that would fall into -- that would be
22 able to take advantage of this reduction in
23 the corporate tax for small businesses that
24 goes down 2.5 percent, which is the lowest

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1 rate that it's ever been, there's about
2 42,000 businesses that fall into that.

3 A number of small businesses -- with a
4 small business, you can structure yourself in
5 a lot of different ways. There are about
6 42,000 of them that structure themselves as
7 corporations so are therefore paying
8 corporation tax. So therefore they're paying
9 corporation tax, and then as they pay
10 individuals, they're paying on their
11 individual income tax.

12 A lot of other small businesses
13 structure themselves as partnerships or
14 flow-through entities where the income
15 actually flows down to the individual. Those
16 people have actually been able to take
17 advantage of the decreased personal income
18 tax rate that was put in place a few years
19 ago. So they've already been able to receive
20 a reduction in their tax.

21 ASSEMBLYMAN OAKS: Do we have a sense
22 of the total number, then, of businesses --
23 you know, you said it's going to affect
24 42,000. What's the total number of --

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1 EXEC. DEP. COMMISSIONER MANION: We
2 don't have that number because, as I
3 mentioned before, they're structured in a lot
4 of different ways. And so therefore it gets
5 very complicated. It's not like one
6 business, one tax return, because it could be
7 coming in on multiples.

8 ASSEMBLYMAN OAKS: And the total
9 amount of the tax break this year and then
10 when fully phased in?

11 EXEC. DEP. COMMISSIONER MANION: Do
12 you have that number?

13 DTF GENERAL COUNSEL HILLER: The total
14 amount of the tax break? It's a reduction to
15 a 2.5 percent rate on businesses that are
16 under \$290,000, so --

17 ASSEMBLYMAN OAKS: The total value of
18 that? We can get that.

19 DTF GENERAL COUNSEL HILLER: Yeah,
20 just do the math of that.

21 ASSEMBLYMAN OAKS: Okay. One of the
22 proposals in the Executive Budget I found was
23 on the ability to share data with state
24 agencies looking for outstanding tax

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1 liabilities. Just issues around privacy,
2 concerns for that and what the department is
3 doing to ensure that we don't have breaches
4 of that.

5 EXEC. DEP. COMMISSIONER MANION: We're

6 very serious about tax secrecy. As many of
7 you know, when you ask about issues for your
8 constituents, very often you hear from us
9 that we can't discuss the details. This same
10 type of secrecy has to be taken into
11 consideration when we're working with other
12 agencies.

13 However, I mentioned before our data
14 analytics and the system that we have in
15 place, and we have a lot of information that
16 will help to focus enforcement efforts not
17 only for the Tax Department but for other
18 agencies, for businesses that are not
19 compliant. And so if we need to do an
20 inspection of certain businesses, we should
21 be working -- we should be doing that
22 inspection of those where we feel there might
23 be an issue.

24 So what we want to do is build the

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1 intelligence around the selection for all of
2 the enforcement activities for the different
3 agencies, yet understanding the secrecy
4 provisions. So within the bill it actually
5 says that we would not be providing it based
6 on an individual, we would be saying here is
7 a group that potentially could have issues.
8 And not giving the specifics as to how they
9 were selected, so that it could never get
10 tied back to that individual business or that
11 individual person.

12 ASSEMBLYMAN OAKS: And then my last
13 question, I also found that there is an
14 expansion in the proposed budget to have the
15 Excelsior Jobs Program expanded to
16 entertainment companies. Is there an
17 intention on a certain specific targeted
18 company or --

19 EXEC. DEP. COMMISSIONER MANION: Not
20 that I know of.

21 ASSEMBLYMAN OAKS: Thank you.

22 CHAIRMAN FARRELL: Thank you.

23 Senator?

24 CHAIRMAN DeFRANCISCO: Senator

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1 Krueger.

2 CHAIRMAN FARRELL: We've been joined
3 by Assemblyman Wepri n.

4 SENATOR KRUEGER: Thank you.

5 Good morning. Jumping back to
6 Assemblymember Cusick's question about the
7 educational tax credit, I think there's also
8 some confusion about the difference between a
9 charitable deduction under existing tax law
10 and this educational tax credit.

11 So if I make a contribution under
12 existing law to a charitable organization of
13 a million dollars, what would you estimate
14 the deduction to my New York State taxes
15 would be on that million-dollar charitable
16 contribution?

17 EXEC. DEP. COMMISSIONER MANION: What

18 we're looking at is that charitable
19 contribution would have to be added back so
20 that it wouldn't be --

21 SENATOR KRUEGER: I'm sorry, I didn't
22 hear.

23 EXEC. DEP. COMMISSIONER MANION: It
24 would have to be added back. So if it was --

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1 SENATOR KRUEGER: No, no. If we
2 didn't change anything. Just today, if I
3 make a million-dollar contribution to a
4 501(c)(3) organization and I am an individual
5 who is obviously in probably the highest tax
6 bracket, what is the deduction from my New
7 York State taxes for a million-dollar
8 charitable contribution?

9 DTF GENERAL COUNSEL HILLER: We'd have
10 to do the math on that. You know, it's a
11 bracket issue. If your income -- right now
12 we currently have some restrictions on the
13 deductibility of charitable contributions for
14 people in the higher-income brackets. In
15 fact, this budget proposes to extend that
16 reduction in the charitable contribution.

17 But under current law, and as
18 proposed, if your income is over \$10 million,
19 you're allowed 25 percent of the deduction
20 otherwise available. So it would be a very
21 scaled-back deduction. And presumably if
22 you're making that level of contribution,
23 you're probably at an income level that has

24 reduced deductibility.

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1 SENATOR KRUEGER: So let's say I have
2 a -- if I'm making a million-dollar
3 contribution, let's say I have a \$5 million
4 income that year. Under current law, what do
5 you project my tax deduction from New York
6 State taxes would be on a million-dollar
7 contribution?

8 DTF GENERAL COUNSEL HILLER: You know,
9 I don't have --

10 SENATOR KRUEGER: What's the maximum
11 it could be?

12 DTF GENERAL COUNSEL HILLER: I can't
13 do the math in my head. But we -- with
14 incomes between a million and \$10 million, we
15 reduce the deductions for charitable
16 contributions by 50 percent. So there would
17 be some reduction, but I can't do that math
18 in my head. We can certainly get back to you
19 on that.

20 SENATOR KRUEGER: The maximum
21 conceivably would be a 25 percent deduction
22 on a million dollars?

23 DTF GENERAL COUNSEL HILLER: Right
24 now, if your income is between a million and

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1 \$10 million, we reduce your charitable
2 deduction by 50 percent. And if it's over
3 \$10 million, we reduce it down to 25 percent.

4 SENATOR KRUEGER: So I would get a
5 deduction on the \$500,000 instead of a
6 million?

7 DTF GENERAL COUNSEL HILLER: Yeah, if
8 your income is -- I mean, there's math there.
9 I can't do that in my head.

10 SENATOR KRUEGER: So the maximum
11 deductibility on a \$500,000 contribution is
12 25 percent?

13 DTF GENERAL COUNSEL HILLER: On a
14 \$500,000 contribution, again, it depends on
15 your income as to what the extent of the
16 deductibility would be.

17 SENATOR KRUEGER: Right. But I'm just
18 saying give me the highest level that
19 charitable could be, that charitable
20 deduction could be valued at for me for tax
21 purposes.

22 DTF GENERAL COUNSEL HILLER: If your
23 income is a million dollars but you have
24 assets and you're giving a million-dollar

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1 contribution, you know, but your actual
2 income is under a million dollars, you're
3 going to get a deduction of a hundred percent
4 of that contribution. It's going to -- you
5 know, your actual rate of taxes will depend
6 on your income. So it -- again, it's math.
7 It's possible to have a lower income and
8 still have the --

9 SENATOR KRUEGER: No, I'm assuming a

10 \$5 million income, a million-dollar
11 contribution. You're telling me that you
12 would lower the maximum value of that
13 contribution to 500,000.

14 DTF GENERAL COUNSEL HILLER: Right.

15 SENATOR KRUEGER: So I'm asking you, I
16 have a \$5 million income, you're allowing me
17 a taxable charitable deduction on \$500,000.
18 What is the maximum deduction value of my
19 contribution for New York State tax purposes?

20 DTF GENERAL COUNSEL HILLER: You would
21 be deducting \$500,000.

22 SENATOR KRUEGER: No, how much would
23 you be lowering my taxes?

24 DTF GENERAL COUNSEL HILLER: I don't

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30

1 know the math on that. But we can certainly
2 get that for you. I don't have the rate
3 table.

4 SENATOR KRUEGER: Okay. But I think
5 it couldn't be more than 25 percent of the
6 value of the contribution.

7 DTF GENERAL COUNSEL HILLER: That's
8 certainly possible. But, you know, we can
9 get back to you with the math. You know, I
10 need to look at a rate table with a
11 calculator.

12 SENATOR KRUEGER: (Inaudible.)

13 CHAIRMAN DeFRANCISCO: No, I was just
14 going to say that it's nice that you're
15 thinking about a million-dollar contribution.

16 (Laughter.)

17 CHAIRMAN DeFRANCISCO: But you should
18 talk to your campaign -- excuse me, your
19 accountant.

20 SENATOR KRUEGER: I'll be removing the
21 mic.

22 (Laughter.)

23 SENATOR KRUEGER: Follow-up question.
24 Under the proposed educational tax credit of

♀ 31

1 the Governor, if I make a million-dollar
2 contribution to one of these newly defined or
3 not yet defined educational entities, what is
4 the value of the tax credit I would get for
5 my million-dollar contribution?

6 EXEC. DEP. COMMISSIONER MANION: You
7 would be able to deduct \$750,000, 75 percent.

8 SENATOR KRUEGER: Seven hundred fifty
9 thousand.

10 EXEC. DEP. COMMISSIONER MANION: You
11 could deduct that from your income.

12 SENATOR KRUEGER: So you would agree
13 that the value of an educational tax credit
14 deduction is dramatically if not radically
15 more than the taxable deduction under
16 existing not-for-profit contributions in
17 New York State law?

18 EXEC. DEP. COMMISSIONER MANION: With
19 the criteria that you set forth, I would say
20 that, yes.

21 SENATOR KRUEGER: I think it's

22 criteria that would exist in law. So -- all
23 right. Thank you for that.

24 Moving on, going to the renter's tax

♀ 32

1 credit, a section of the law appears to say
2 that it provides the New York State
3 commissioner of Tax and Finance the authority
4 to unilaterally reduce the adjusted rent for
5 the purpose of computing the tax credit if he
6 or she determines that the rent amount is
7 excessive to an amount substantially
8 equivalent to rent for comparable housing
9 units in New York City.

10 So this is, I think, a new power given
11 to you, the power to reduce people's rents.
12 How do you plan on using the data to
13 determine comparable value of different
14 rental units with different rents in order to
15 make this happen?

16 DTF GENERAL COUNSEL HILLER: I think
17 we're going to use analytics to try to do the
18 best comparisons that we can do to see if
19 there's some significant outlier in the --
20 across the data pool.

21 SENATOR KRUEGER: Across -- I'm sorry?

22 DTF GENERAL COUNSEL HILLER: Across
23 the data pool, you know, that comes in.
24 Because we do use some analytics.

♀ 33

1 SENATOR KRUEGER: So if you come
2 across a group of apartments in New York City

3 that seem to have disproportionately higher
4 rent for equivalent units with other units in
5 New York City, you actually will have the
6 power to say that rent is too high and lower
7 the rent? Just confirming that.

8 DTF GENERAL COUNSEL HILLER: I'm
9 looking at my counsel.

10 EXEC. DEP. COMMISSIONER MANION: This
11 is Joe Gerberg, our counsel.

12 DTF GENERAL COUNSEL HILLER: He's our
13 real property tax guru.

14 SENATOR KRUEGER: I love gurus.

15 ORPTS COUNSEL GERBERG: Well, I
16 don't -- if your question is does the Tax
17 Department have the power to actually reduce
18 rents, no, that's not the case.

19 When we compute the credit that they'd
20 be entitled to, if we determine that the rent
21 that they're paying is excessive compared to
22 the market, we will compute their credit
23 based on the market rent, not the actual
24 rent.

♀

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1 SENATOR KRUEGER: Okay. So you will
2 give them a credit based on what you believe
3 their rent should be --

4 ORPTS COUNSEL GERBERG: Correct.

5 SENATOR KRUEGER: -- but not order
6 their rent to be lowered.

7 ORPTS COUNSEL GERBERG: That's
8 correct.

9 SENATOR KRUEGER: I think if you read
10 the language in the Article 78 bill, there's
11 some room for a different interpretation.

12 But if you're going to say that that
13 rent should be lower for computing the tax
14 credit, that means the person is eligible for
15 a lower tax credit because you actually
16 thought their rent should be lower but you're
17 not lowering the rent?

18 ORPTS COUNSEL GERBERG: We're giving
19 them a credit based on -- I think the concept
20 is that if the rent is out of line compared
21 to what the value of the rental property is,
22 we aren't going to go -- if the tenant is
23 paying more than they should be paying,
24 that's not -- we're not going to cover that

♀ 35

1 part of the rental payment. We'll cover what
2 the rent is -- should be. Again, what the
3 market says the rent for a property of that
4 character should be, we will give them the
5 credit on that basis.

6 SENATOR KRUEGER: So I'm being
7 overcharged for the value of my apartment. I
8 don't really have any control of that in the
9 New York City rental market. We have a
10 housing crisis; people are desperate to hold
11 on to their homes. But you, the Department
12 of Tax, has determined that I'm really paying
13 too much in rent and hence you're going to
14 calculate a tax credit at a lower amount for

15 me, even though you admit I'm paying too much
16 in rent. So I get a double hit, I am paying
17 more than I should in rent, and I have no
18 control over that, and now I'm going to get a
19 lower tax credit from the State of New York
20 because you've determined my rent is too high
21 but you can't do anything about that?

22 EXEC. DEP. COMMISSIONER MANION: I
23 think what we're looking for is outliers,
24 those that fall really outside of it.

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1 Because whenever we're talking about credits,
2 there are some things that get reported that
3 are not necessarily accurate.

4 So if it's -- you could have -- if
5 somebody is living -- it could -- it's an
6 arm's length -- it's not an arm's length
7 transaction. So somebody could be reporting
8 rent that they may not actually be paying but
9 be able to get the benefit from the rent.

10 So it's just -- it's to stop the
11 questionable filings.

12 SENATOR KRUEGER: I didn't hear the
13 final sentence, I'm sorry.

14 EXEC. DEP. COMMISSIONER MANION: It's
15 to stop questionable filings. So we would be
16 identifying those that are falling outside of
17 the norm. And we would be asking some
18 questions, too, to see why it is that they're
19 paying the rent that's so much higher in that
20 area and have them do the validation before

21 we would actually deny the credit.

22 DTF GENERAL COUNSEL HILLER: And if I
23 could just add, you know, the renter's credit
24 that we're talking about is as a surrogate

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1 for the property taxes. And, you know,
2 people may be paying rent that's above market
3 rate for a variety of reasons that are about
4 the New York City housing market.

5 But we -- we're trying to capture that
6 portion of the rent that is attributable to
7 property taxes broadly. And for some tenants
8 in some apartments, we may be able to get a
9 sense of what that property tax burden is
10 separate and apart from what the rent is.
11 You know, it could be a building with really
12 high amenities but that isn't taxed that way,
13 and that is an outlier in that way.

14 SENATOR KRUEGER: My time is up, so I
15 have to come back later. But I guess I'll
16 highlight if the Department of Taxation is
17 going to be able to document that there are
18 people who are paying far more in rent than
19 they ought to based on comparable market
20 value, that would be valuable information for
21 lots of people to have, because maybe then we
22 could actually challenge illegal overcharges,
23 which we see so often in rental markets in
24 New York City.

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1 So my time is up; I'll come back.

2 CHAIRMAN FARRELL: Assemblyman Wepri n.

3 ASSEMBLYMAN WEPRI N: Thank you,

4 Mr. Chairman.

5 Thank you for coming this morning.

6 I'm going to do a couple of questions
7 in the area of the STAR program. I know
8 there's a change in this year's budget. I
9 represent a district in Queens that's
10 probably about a third homeowners, a third
11 co-op owners, and a third renters. And I
12 understand the traditional STAR program as we
13 knew it is now going to be converted into an
14 income tax credit; is that correct?

15 EXEC. DEP. COMMISSIONER MANION: Yes,
16 that will happen for new purchases.

17 ASSEMBLYMAN WEPRI N: So when you say
18 new purchases, if someone has -- is a
19 homeowner and has had the STAR exemption for,
20 you know, X number of years, that will
21 continue for now?

22 EXEC. DEP. COMMISSIONER MANION: That
23 will continue in the same way for now, yes.

24 ASSEMBLYMAN WEPRI N: Until when?

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1 EXEC. DEP. COMMISSIONER MANION: Until
2 the property changes hands. So it's
3 indefinitely, as long as they own that
4 property.

5 ASSEMBLYMAN WEPRI N: Okay. And one of
6 the things about the STAR program was I think

7 once someone signed up for it -- and we had a
8 whole campaign to get people that were
9 eligible for STAR to sign up for it -- that
10 they didn't have to renew it every year, that
11 it was automatically, they were in the
12 database and they received that STAR
13 exemption. Is that still the case?

14 EXEC. DEP. COMMISSIONER MANION: Yes,
15 it is still the case. We had the
16 registration last year where people came into
17 the department and they did the re
18 registration for STAR. And through that
19 registration we were able to identify some
20 people that weren't necessarily eligible for
21 it, and we've been able to take them off of
22 the STAR rolls. And also there's legislation
23 where we can go back and collect back STAR
24 benefits.

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1 ASSEMBLYMAN WEPRIN: Okay. Can you
2 tell me the distinction between the \$250,000
3 figure and the \$500,000 figure? There's a
4 circuit breaker now. Is that going forward,
5 is that -- say somebody has been getting a
6 STAR exemption. What's the dollar amount
7 that applies?

8 EXEC. DEP. COMMISSIONER MANION: Okay,
9 the distinction with the tax credit now is to
10 provide the benefit to people that need it
11 most. The tax cap is working. I mentioned
12 in my testimony that 84 percent of the local

13 governments and 97 percent of the schools
14 have stayed within the tax cap. So with the
15 tax cap, with it staying low, the growth
16 staying low, and with the freeze checks that
17 were recently sent out to 2-million-plus
18 property owners, the people that receive the
19 freeze check, basically their school tax is
20 the same as it was in 2013.

21 What the credit is now is the credit
22 is to provide additional benefit to those
23 that need it most. So for people that make
24 under \$250,000 and their property taxes are

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1 greater than 6 percent of their income, it
2 will be providing them with a credit that
3 will help to offset that.

4 ASSEMBLYMAN WEPRI N: Okay. And this
5 renter's tax credit, is that something that
6 does not exist now but will exist going
7 forward?

8 EXEC. DEP. COMMISSIONER MANION: It
9 did not exist. It's for the same, it's for
10 people that need it most. So it's people
11 that are paying rent, a portion of their
12 rent -- we've calculated it, 13.75 percent --
13 is for property tax.

14 So if that amount goes -- if they're
15 paying greater than 6 percent of their
16 rent -- the 13.75 percent of their rent, they
17 would be afforded that credit.

18 However, I have to qualify it's only

19 for those that are cap-compliant, so for
20 schools and local governments that are
21 cap-compliant.

22 ASSEMBLYMAN WEPRI N: Okay. And for
23 family income, it's only up to \$150,000 for
24 the renters.

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1 EXEC. DEP. COMMISSIONER MANION: A
2 hundred fifty thousand for the renters,
3 250,000 for the homeowners.

4 ASSEMBLYMAN WEPRI N: Okay, thank you
5 very much.

6 Thank you, Mr. Chairman.

7 CHAIRMAN FARRELL: Thank you.
8 Senator?

9 CHAIRMAN DeFRANCISCO: Getting back
10 to the education tax credit, there's a
11 limited amount of money -- \$100 million, is
12 that what it is?

13 EXEC. DEP. COMMISSIONER MANION:
14 Mm-hmm.

15 CHAIRMAN DeFRANCISCO: And let's
16 suppose that Senator Krueger gives a
17 million dollars and others do the same thing.
18 And it gets to the point where there's too
19 many applicants. And you've got to apply
20 first, right, you've got to be approved?

21 EXEC. DEP. COMMISSIONER MANION:
22 Correct.

23 CHAIRMAN DeFRANCISCO: All right. So
24 now what day is it being cut off? Is there a

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1 set date where it's going to be cut off so I
2 know whether a contribution is going to be --
3 the credit's still available? How will I
4 know that?

5 EXEC. DEP. COMMISSIONER MANION: I
6 believe it's January 15th.

7 ORPTS COUNSEL GERBERG: That's right.

8 EXEC. DEP. COMMISSIONER MANION: So
9 applications will come in up until
10 January 15th. We'll compile all those
11 applications and determine whether it goes
12 over the \$100 million. First we'll look to
13 make sure that they're not looking to donate
14 more than a million dollars.

15 So each individual or corporation can
16 only donate up to a million dollars. The
17 total cannot exceed \$100 million.

18 So what we would be doing is if it
19 comes in at \$120 million, if there are
20 applicants that want to donate \$120 million,
21 we would be prorating the amount that they
22 can take as a credit.

23 CHAIRMAN DeFRANCISCO: Okay, I gotcha.
24 I've got to do one step at a time so I can

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1 follow it.

2 So the applications come in, and the
3 amount -- let's say the amount is
4 \$110 million. That's what they're applying
5 for as -- they're giving you what they want

6 to donate.

7 EXEC. DEP. COMMISSIONER MANION: Okay.

8 CHAIRMAN DeFRANCISCO: Is that
9 correct? The \$100 million or \$120 million,
10 it's determined by the application, what is
11 requested to be donated? Or the credit they
12 intend to get?

13 EXEC. DEP. COMMISSIONER MANION: The
14 \$100 million is the credit.

15 So therefore if a person wanted to
16 take a million dollars of a credit, they
17 would have to donate -- I think it's like
18 \$1.3 million.

19 CHAIRMAN DeFRANCISCO: Okay. All
20 right. So now we get down to January 16th,
21 and there's too many credits. Do you
22 automatically prorate it at that time so the
23 person will not give \$1.3 million but that
24 what they'll give is less because there's a

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1 less credit? Are you stuck to the amount of
2 donation that you applied for?

3 EXEC. DEP. COMMISSIONER MANION: We
4 would prorate it, we would inform them as to
5 how much of their donation would be covered
6 by the credit.

7 CHAIRMAN DeFRANCISCO: And then they
8 could then make that donation, whatever the
9 number may be.

10 EXEC. DEP. COMMISSIONER MANION:
11 Right. And they could donate more if they'd

12 like.

13 CHAIRMAN DeFRANCISCO: No, I
14 understand that. But they haven't yet, so it
15 doesn't seem to think it's going to happen.

16 All right, so now we go, after the
17 proration -- now let's say the credit is less
18 than \$100 million. Then you open it up to
19 applications again?

20 EXEC. DEP. COMMISSIONER MANION: We'll
21 continue to receive applications, and it will
22 be on a rolling basis. So until we hit that
23 \$100 million, we will accept the
24 applications.

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1 CHAIRMAN DeFRANCISCO: And is this
2 starting January 1, 2016?

3 EXEC. DEP. COMMISSIONER MANION:
4 Correct.

5 CHAIRMAN DeFRANCISCO: All right.
6 Now, the renter and the other credit -- how
7 do you administer all this stuff, by the way?
8 I mean, this seems like you've come into an
9 impossible burden with the number of
10 employees you have. Is that a fair
11 statement?

12 EXEC. DEP. COMMISSIONER MANION:
13 (Pause.)

14 CHAIRMAN DeFRANCISCO: I know, I
15 know --

16 EXEC. DEP. COMMISSIONER MANION:
17 Actually, the fair statement is we have

18 incredible employees.

19 CHAIRMAN DeFRANCISCO: Oh, all right.

20 EXEC. DEP. COMMISSIONER MANION: And I
21 think we do a great job. We do have
22 challenges each year, but each year we
23 deliver.

24 This credit is actually -- is

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1 something that falls into something that we
2 do on a regular basis. Every year we have
3 what we call our annual cycle. We look at
4 the legislation that's been passed, the
5 changes that need to be made, the changes
6 that need to be made to our processing
7 system.

8 We're actually in a better place now
9 that e-filing has increased as much. We have
10 about 90 percent of the people are e-filing.
11 It's easier to make a change on the
12 electronic filing than with the paper filing.
13 So it's easier -- it's actually easier for us
14 to manage, and we can be more nimble now in
15 the electronic age.

16 CHAIRMAN DeFRANCISCO: All right. Now
17 back to the circuit breaker. When -- can
18 someone actually get a renter's tax credit
19 when the building owner is not even paying
20 taxes?

21 EXEC. DEP. COMMISSIONER MANION: Yes.
22 Because this is based on what that individual
23 is paying. And it's focused on providing the

24 relief to those that need it most.

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1 The individual paying the rent doesn't
2 know if the person that they're paying to has
3 paid the tax --

4 CHAIRMAN DeFRANCISCO: No, I mean if
5 it's nontaxable, if it's a subsidized
6 building. Obviously their rents are
7 determined based on the fact that it's an
8 unsubsidized building.

9 And if the owner's not paying it, or
10 the government, whoever owns the darn thing,
11 why would you presume that they should get
12 part of their rent back when nobody's paying
13 taxes on the building?

14 EXEC. DEP. COMMISSIONER MANION: And I
15 think that's what Senator Savino was talking
16 about. The way the bill is written now, it's
17 for the individual, the burden of the
18 individual.

19 CHAIRMAN DeFRANCISCO: On the
20 assumption that somebody is paying taxes,
21 therefore their rent goes higher.

22 EXEC. DEP. COMMISSIONER MANION:
23 Mm-hmm.

24 CHAIRMAN DeFRANCISCO: Okay. Well,

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1 we'll see. We'll look into that one a little
2 bit.

3 All right. As far as the

4 administration of it, I file my taxes, I make
5 the computation of what my income is and so
6 forth, and if I'm below the income I actually
7 take the credit.

8 EXEC. DEP. COMMISSIONER MANION:

9 Mm-hmm.

10 CHAIRMAN DeFRANCISCO: So it's like
11 any other tax filing; the burden would be on
12 you to show that the taxpayer is being
13 untruthful. Is that fair enough?

14 EXEC. DEP. COMMISSIONER MANION: Well,
15 the burden is on the taxpayer to be truthful
16 in their return. We do analyze every return
17 that comes in to make sure that it's right.

18 CHAIRMAN DeFRANCISCO: Okay. I'm not
19 considering fraud, I'm just trying to say
20 that it is a heck of a burden, because all
21 the different calculations and --

22 EXEC. DEP. COMMISSIONER MANION: And
23 it's not -- in our analytics, we don't look
24 at it all as fraud, because there are

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1 complexities. So it's questionable or it's
2 people not understanding.

3 We stop about 250,000 returns that
4 come in to question, and some of those are
5 probably fraudulent requests for refunds.
6 Last year we stopped \$450 million from going
7 out that we didn't think should be sent out.

8 For something like this, where there's
9 additional credits, we would be doing the

10 checks. We'd have the third-party
11 information, we have the information from the
12 locals. So we'll be doing that calculation
13 behind the scenes in our system to make sure
14 that they're eligible.

15 CHAIRMAN DeFRANCISCO: Last question.
16 If you're a taxpayer and you are a low-income
17 taxpayer -- well, not a taxpayer. If you
18 file a return and you get an earned income
19 tax credit and that credit is greater than
20 your tax liability, you get a check back;
21 correct?

22 EXEC. DEP. COMMISSIONER MANION:
23 Correct.

24 CHAIRMAN DeFRANCISCO: Can you give me

♀ 51

1 an idea how many dollars' worth of checks
2 come back every year to people that are using
3 the earned income tax credit? Ballpark.

4 EXEC. DEP. COMMISSIONER MANION: So
5 your question is how many are entitled and we
6 send out, or how many do we stop?

7 CHAIRMAN DeFRANCISCO: No, no. How
8 many dollars goes out every year?

9 EXEC. DEP. COMMISSIONER MANION:
10 Actually, I might have that.

11 CHAIRMAN DeFRANCISCO: You could send
12 it to me.

13 EXEC. DEP. COMMISSIONER MANION: I can
14 get back to you with that.

15 CHAIRMAN DeFRANCISCO: You can send it

16 to me.

17 And if this circuit breaker results in
18 another credit for someone who doesn't pay --
19 actually gets money back every year, would
20 that just be added to the money that they get
21 back?

22 EXEC. DEP. COMMISSIONER MANION: If
23 they're due the credit, yes, it would get
24 added to it. It would run through all of our

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1 checks to make sure that they're entitled to
2 it.

3 Our system does allow us to make
4 inquiries on one part of a refund and not
5 another. So we may -- if we're questioning
6 an earned income tax credit yet somebody is
7 entitled to a real property tax credit, we'll
8 send out the check for the real property tax
9 credit but not the earned income tax until we
10 can validate it.

11 CHAIRMAN DeFRANCISCO: Okay, thank
12 you.

13 CHAIRMAN FARRELL: Thank you.

14 CHAIRMAN DeFRANCISCO: Oh, Senator
15 Hamilton is here as well.

16 SENATOR KRUEGER: He also has a
17 question.

18 CHAIRMAN DeFRANCISCO: Senator
19 Hamilton.

20 SENATOR HAMILTON: Thank you, Chair
21 and Madam Ranking Chair.

22 Good mornin g.
23 EXEC. DEP. COMMI SSIONER MANI ON: Good
24 morni ng.

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1 SENATOR HAMI LTON: I'm not that
2 well-versed in property tax, so I'm just
3 trying to find out, is the property taxes for
4 everybody assessed the same every year from a
5 base year? Is the base year like -- was it
6 2010?

7 ORPTS COUNSEL GERBERG: Well, let me
8 take that one. The property tax is basically
9 reassessed annually. Every year there's a
10 new assessment roll. In theory, all the
11 properties could -- can and should be looked
12 at every year. But customarily, the prior
13 year's assessments are often carried forward.

14 But it is an annual process,
15 generally, not a --

16 SENATOR HAMI LTON: So when was the
17 last year all the properties were assessed at
18 the same time together at a hundred percent
19 of valuation?

20 ORPTS COUNSEL GERBERG: Well, it
21 depends on the juri sdiction. It's a local
22 tax.

23 SENATOR HAMI LTON: So let's go to
24 New York Ci ty.

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1 ORPTS COUNSEL GERBERG: New York Ci ty
2 does annual reassessments.

3 SENATOR HAMILTON: When was the last
4 time it was based at a hundred percent of
5 valuation?

6 ORPTS COUNSEL GERBERG: Excuse me, the
7 last time what?

8 SENATOR HAMILTON: Basically every
9 year there's caps on property taxes, right,
10 6 percent a year, no more than 20 percent
11 over a five-year period, right? So when did
12 it actually start, that cap?

13 ORPTS COUNSEL GERBERG: That cap went
14 into effect when Article 18 was enacted.
15 Article 18 of the Real Property Tax Law was
16 enacted in 1981. And I believe that cap has
17 been in place since then.

18 SENATOR HAMILTON: So the base year,
19 for all practical purposes, for property
20 assessment without having revaluations is
21 1981 for New York City?

22 ORPTS COUNSEL GERBERG: For purposes
23 of the cap. But that 6 percent, yes, has
24 been in effect since 1981.

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1 SENATOR HAMILTON: So we would agree
2 that the assessed value and the market value
3 are not in sync, or is it the same?

4 ORPTS COUNSEL GERBERG: There is an
5 issue -- yes, the cap does keep assessments
6 at a level which is generally lower than they
7 would be without the cap.

8 SENATOR HAMILTON: So what percentage

9 of the assessed value would you say is at
10 their market value today?

11 ORPTS COUNSEL GERBERG: Well, I know
12 the city has targets that they -- Class 1
13 property, residential property, is generally
14 assessed at 6 percent of value, and the other
15 three classes at 45 percent of value.

16 SENATOR HAMILTON: No, that's not the
17 question I asked you. I said what percentage
18 of the assessed value is at the market value
19 today? The assessed value is what you're
20 taxed at, right?

21 ORPTS COUNSEL GERBERG: Yes.

22 SENATOR HAMILTON: And you have the
23 market value, where properties are sold at.

24 ORPTS COUNSEL GERBERG: Yes.

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1 SENATOR HAMILTON: What's the
2 percentage of the assessed value to the
3 market value?

4 ORPTS COUNSEL GERBERG: Those are the
5 percentages. For Class 1, it's --

6 SENATOR HAMILTON: I know that the
7 6 percent of the market value is your
8 assessed value, but -- let me rephrase the
9 question for you.

10 The value for taxation for a property,
11 where does that value come from?

12 ORPTS COUNSEL GERBERG: The value
13 comes from the marketplace. There's three --

14 SENATOR HAMILTON: There's a cap since

15 1981 at 6 percent a year and no more than 20
16 percent, and the appreciation has outpaced
17 that cap.

18 ORPTS COUNSEL GERBERG: That's true.

19 SENATOR HAMILTON: So there's a
20 disparity in what you're taxed, then, and
21 what the actual market value is. Can we just
22 get to that point?

23 ORPTS COUNSEL GERBERG: Well, I don't
24 think -- I don't know that there are figures.

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1 If there is property that has over --

2 SENATOR HAMILTON: You're telling me
3 that you don't know that what the property is
4 being taxed at and the market value is
5 similar? Or are you saying you just don't
6 know?

7 ORPTS COUNSEL GERBERG: I think it's a
8 case-by-case question of whether -- how the
9 property's --

10 SENATOR HAMILTON: No way it could be
11 a case-by-case basis. If since 1981 property
12 values can't go up more than 20 percent in a
13 five-year period and appreciation -- I bought
14 my house, let's say, for \$250,000 and now
15 it's worth \$1.5 million. There's a cap on my
16 house of what my property taxes can be
17 increased, 6 percent a year. So you're
18 telling me that with the cap and today's
19 market value, the property is being taxed
20 near the full market value?

21 ORPTS COUNSEL GERBERG: Well, if the
22 market has gone up by -- has --

23 SENATOR HAMILTON: We can move
24 forward, because -- okay.

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1 SENATOR KRUEGER: You have another two
2 and a half minutes if you --

3 SENATOR HAMILTON: Oh, okay. We're
4 not going to get anywhere with that question,
5 okay.

6 So let's go for the STAR exemption to
7 personal income taxes. Basically you said
8 the STAR is going to be transferred into
9 income tax -- a personal income tax credit?

10 EXEC. DEP. COMMISSIONER MANION: So is
11 your question about STAR back in the 1990s
12 where --

13 SENATOR HAMILTON: No, no, I'm moving
14 forward now. Present day. Present day.

15 EXEC. DEP. COMMISSIONER MANION: So
16 the personal income tax credit, the property
17 tax credits, yes.

18 SENATOR HAMILTON: So there's a
19 disparity between New York City property tax,
20 how people are taxed in property taxes,
21 versus Long Island. You know, where a
22 property tax in New York City can have
23 \$4,000, Long Island can have \$10,000 to
24 \$15,000.

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1 As far as the personal income tax
2 credit, would there be a disparity as far as
3 who gets what as far as reductions, versus
4 Long Island versus New York City for a
5 senior? So you're on a fixed income, you're
6 not making a lot of money -- well, hopefully
7 you've got a fixed income.

8 EXEC. DEP. COMMISSIONER MANION: The
9 credit is to address people that need it most
10 that are most negatively impacted by their
11 property taxes.

12 SENATOR HAMILTON: Okay, well,
13 that's -- that's -- that's -- actually, with
14 the program that -- let's go with the
15 Enhanced STAR and the STAR exemption. How
16 much money do we spend on that a year as far
17 as property taxes not coming in?

18 EXEC. DEP. COMMISSIONER MANION: The
19 Enhanced STAR?

20 SENATOR HAMILTON: And the STAR
21 program.

22 EXEC. DEP. COMMISSIONER MANION: The
23 Enhanced STAR program. I don't have the
24 number on that right now.

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1 SENATOR HAMILTON: Is it a hundred
2 million or --

3 ORPTS COUNSEL GERBERG: The total cost
4 to the state for the program --

5 SENATOR HAMILTON: Yes.

6 ORPTS COUNSEL GERBERG: -- is about

7 \$3.1 billion.

8 SENATOR HAMILTON: Three-point-one
9 million -- billion?

10 ORPTS COUNSEL GERBERG: Billion, yes.

11 SENATOR HAMILTON: Okay. And how much
12 do we give away for the 421a exemption?

13 ORPTS COUNSEL GERBERG: For which
14 exemption?

15 SENATOR HAMILTON: The 421a property
16 tax.

17 DTF GENERAL COUNSEL HILLER: We don't
18 administrator that program.

19 ORPTS COUNSEL GERBERG: We don't have
20 that figure.

21 SENATOR KRUEGER: It's the city.

22 SENATOR HAMILTON: It's city, not
23 state, I'm sorry.

24 SENATOR KRUEGER: One-point-one

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1 billion.

2 SENATOR HAMILTON: One-point-one
3 billion, all right. All right. All right.

4 Thank you very much, I appreciate it.
5 I'll come back later.

6 CHAIRMAN FARRELL: Thank you.

7 Senator?

8 SENATOR KRUEGER: Thank you.

9 Round two. The Governor is proposing
10 a number of closing of sales and use tax
11 avoidance strategies. So he's trying to, I
12 guess, close what I would call loopholes.

13 Can you tell me a little bit about what these
14 changes are and how you think it will impact
15 the behavior of taxpayers?

16 EXEC. DEP. COMMISSIONER MANION: Okay.
17 Some of these loopholes are a result of some
18 tax planning, which is not illegal. But
19 there are some loopholes such as if a company
20 uses an associated company out-of-state to
21 make a purchase of a high-dollar product. So
22 they purchase this out-of-state, and they
23 then they bring it into New York State.
24 Since they're closely associated, it's the

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1 same company and they don't have to pay the
2 use tax because it was purchased
3 out-of-state.

4 What this would do is it would require
5 that that company in the other state have
6 been in place for six months prior, to make
7 sure that it really is a company in another
8 state and not just set up for this.

9 Other parts are where you have closely
10 held that are transferring products and
11 saying that they're for resale but they're
12 really not for resale. They might be leased
13 to the other person -- to the other part of
14 the entity, and with that lease they could be
15 spreading the tax out over the life of the
16 lease. What this would do is it would
17 require that the tax be paid up-front.

18 SENATOR KRUEGER: And then in another

19 section of the Article 78 bill -- did I say
20 Article 78? Article 7, sorry. We're not
21 discussing a lawsuit -- Article 7, he also
22 makes some proposed changes that he calls tax
23 expenditure reform that it seems to me some
24 of it can intersect with the questions I was

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1 asking you about tax avoidance strategies.

2 So is anything between the tax
3 avoidance reform and the tax expenditure
4 reform going to address a problem that has
5 been pointed out to me that we have these
6 things called as-of-right expenditures, where
7 they are tax abatements but because they are
8 granted as-of-right, they aren't treated as
9 expenditures or tracked in the same way in
10 New York State law?

11 So that an as-of-right expenditure can
12 be a significant source of foregone tax
13 revenue and be seen by some as a loophole,
14 but the way that we have our law set up, they
15 don't even get tracked as abatements of
16 expenditures.

17 Do either of the sets of changes the
18 Governor is proposing this year help us get
19 at that problem?

20 EXEC. DEP. COMMISSIONER MANION: I'm
21 going to ask Amanda to see if she can
22 comment.

23 DTF GENERAL COUNSEL HILLER: I just
24 want to make sure I'm understanding the

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1 question.

2 Certainly, you know, there are changes
3 in our tax laws, for example, you know within
4 personal income tax --

5 SENATOR KRUEGER: Can you pull the mic
6 a little closer? I'm sorry, Amanda.

7 DTF GENERAL COUNSEL HILLER: Oh, sure,
8 certainly.

9 I mean, there are changes within our
10 tax law, you know, for example within the
11 personal income tax where, you know, if
12 you're eligible for the credit under the law,
13 that's a reduction in your tax liability.
14 And that may be hard to capture, you know, to
15 have a lot of visibility into, although we
16 certainly do strive to do that.

17 I don't think that the tax loophole
18 closers that we were talking about have a lot
19 to do with that. These loophole closers are
20 on the sales tax side and are intended to
21 address, you know, abuses of our sales tax
22 system that we've seen on audit.

23 You know, I think it's a cycle. You
24 know, people find loopholes, we notice, we

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1 close them. They find new ones, and there's
2 a cycle around that. And so this is this
3 year's set of loophole closers.

4 SENATOR KRUEGER: So again, there's a
5 bunch of different sections of proposed

6 changes in policy, and also it includes some
7 reform, I think of IDAs.

8 EXEC. DEP. COMMISSIONER MANION: Yes.

9 SENATOR KRUEGER: So I think -- I'm
10 asking them in sections because I think it
11 all integrates somehow, but I'm not totally
12 sure.

13 So you've got some expenditures
14 reform, now you have IDA reforms. One of the
15 other issues that was raised in the past is
16 that things like PILOTs, local government
17 land sales and leases, IDA deals -- up until
18 now, there's no role for Tax and Finance to
19 say "Wait a second here, don't do the deal"
20 or "Oh, the deal was done and somebody's
21 perhaps given away their local taxes or their
22 county taxes, but oh, they've also done away
23 with the right of the state to tax." And
24 sometimes we find those are very large sums

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1 of money that the state never had a say in
2 it, but our state revenue's disappeared.

3 So between the IDA, the expenditures,
4 and the avoidance strategy reform sections of
5 the budget, are you going to have more power
6 to say no, the State of New York actually
7 either (a) doesn't approve this deal and/or
8 (b) well, maybe we can't stop the deal but
9 no, you're going to continue to pay your
10 state taxes? How does that all -- that's
11 what I was finally getting to in the

12 questions.

13 EXEC. DEP. COMMISSIONER MANION:

14 That's exactly what the IDA bill is for, so
15 that we can go in and we can audit the
16 program that is being given the IDA sales tax
17 benefits.

18 ESD identifies, they identify what the
19 programs are, but this does give us the
20 ability to go in to see if they actually met
21 the requirements of the program and to
22 protect the state sales tax part of that
23 program.

24 A couple of other parts of the bill,

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1 and actually in the IDA too, is it requires
2 that they check with us to make sure that the
3 company that they are contracting with is
4 tax-compliant. We're looking to move as much
5 of that as possible up-front, so that the
6 state is not spending state money on a
7 contractor that is not paying the taxes that
8 are due.

9 SENATOR KRUEGER: So you can stop the
10 deal before it's done, Tax and Finance will
11 now have to sign off on it?

12 EXEC. DEP. COMMISSIONER MANION: Yes.

13 SENATOR KRUEGER: And then after the
14 fact you can also audit and say, No, actually
15 this isn't okay, you owe us this money?

16 EXEC. DEP. COMMISSIONER MANION:

17 Correct. Correct.

18 SENATOR KRUEGER: And is that true for
19 PILOTS as well under the new law?

20 EXEC. DEP. COMMISSIONER MANION: Not
21 on the PILOTS, no.

22 SENATOR KRUEGER: And on land lease at
23 local government level, land sale or land
24 lease?

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1 ORPTS COUNSEL GERBERG: No. No.

2 SENATOR KRUEGER: So just the IDA
3 section.

4 EXEC. DEP. COMMISSIONER MANION: Yes.
5 Yes.

6 SENATOR KRUEGER: Would you agree it's
7 a good idea for the PILOTS also?

8 EXEC. DEP. COMMISSIONER MANION: I
9 would be a proponent for as much up-front
10 checking as possible. We obviously can't do
11 too much at the local level. But we would
12 work with them, yes.

13 SENATOR KRUEGER: And oh, I have zero
14 time. We'll see if anyone else has a
15 question first.

16 CHAIRMAN FARRELL: We've been joined
17 by Assemblyman Thielen.

18 ASSEMBLYMAN OAKS: And Assemblywoman
19 Malliotakis.

20 SENATOR KRUEGER: No Assembly
21 questions?

22 CHAIRMAN FARRELL: No. You can keep
23 going.

24 SENATOR KRUEGER: I'm going to keep

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1 rolling, thank you.

2 So the City of New York has supported
3 a group of New York City corporate tax
4 reforms, and it's a long list. Is it
5 relatively parallel to the changes in the
6 state tax reforms we did maybe five years ago
7 now? I don't remember how long ago it was.

8 EXEC. DEP. COMMISSIONER MANION: No,
9 the tax reforms were done last year to come
10 into play for -- in --

11 SENATOR KRUEGER: So these city tax
12 reforms are the matching with the --

13 EXEC. DEP. COMMISSIONER MANION: They
14 match to.

15 SENATOR KRUEGER: -- last year's.

16 EXEC. DEP. COMMISSIONER MANION: --
17 our reforms of last year. The practitioners
18 and businesses are very supportive of the
19 city conforming.

20 SENATOR KRUEGER: And the city
21 projects that it's tax-neutral for them. Do
22 these changes somehow impact tax revenue to
23 the state?

24 EXEC. DEP. COMMISSIONER MANION: They

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1 would not impact tax revenues for the state.

2 The city administers their own corporation
3 tax. We don't administer their corporation

4 tax.

5 SENATOR KRUEGER: But sometimes when
6 one level of government changes the way they
7 tax corporations, everybody rushes to their
8 accountants and changes their structure under
9 tax law, so sometimes it does anyway.

10 EXEC. DEP. COMMISSIONER MANION: We've
11 seen that, but we don't believe that's going
12 to happen here. We're working very closely
13 with New York City on this.

14 SENATOR KRUEGER: And then the
15 Governor has also proposed reducing tax
16 levels on small businesses that I believe
17 you're defining as under 100 personnel and --
18 how much revenue?

19 EXEC. DEP. COMMISSIONER MANION: The
20 top is \$390,000 in revenue. But it is phased
21 in. The maximum benefits would be given to
22 those that are under \$290,000.

23 SENATOR KRUEGER: And what's the
24 estimated loss in tax revenue to the state

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1 with this change?

2 EXEC. DEP. COMMISSIONER MANION: Let
3 me see if I have that here.

4 I don't have that. I'll get it for
5 you.

6 SENATOR KRUEGER: Okay, if you could
7 get back to me.

8 EXEC. DEP. COMMISSIONER MANION: Sure.

9 SENATOR KRUEGER: And tying in my last

10 questions about the changes in the city tax
11 reform and the state's proposal for a lowered
12 rate for small businesses -- which I think is
13 a very good idea, by the way -- is there some
14 interrelationship between the package of city
15 tax reform and the state's lowering of taxes
16 for small businesses that will relate to each
17 other somehow in a way that isn't so obvious?

18 EXEC. DEP. COMMISSIONER MANION: A
19 relationship between the corporate reform of
20 last year and the reduction for the small
21 businesses in the corp, last year it reduced
22 the corporation tax rates from 7.1 to 6.5.
23 Prior to that reduction, 6.5 was the tax rate
24 that was for the small corporations.

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1 So that was why it was required that
2 we bring this down. We brought it down even
3 farther than expected, to the 2.5. I'm not
4 sure what New York City is doing with that.

5 SENATOR KRUEGER: Okay. Is there
6 any -- it's a silly question to ask you to
7 predict this, but I don't know who else I
8 would ask. Is it a possibility that a larger
9 corporation would break themselves up into 10
10 subsidiaries of under 100 employees to take
11 advantage of a tax rate that drops from
12 6.5 to 2.5 over X number of years?

13 EXEC. DEP. COMMISSIONER MANION: Well,
14 I don't think it's likely. I've seen a lot,
15 you know, with the way companies structure to

16 maximize. But that would require a lot of
17 administrative work, a lot of different
18 returns that would have to be filed. They
19 would have to show, like, business reasons
20 behind it.

21 With the corporation tax, also we
22 combine all of their businesses that are
23 closely associated. So it most likely would
24 not be of any benefit.

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1 SENATOR KRUEGER: And would the state
2 have an ability to say, "Yeah, that's not
3 what we meant, you can't do that"?

4 EXEC. DEP. COMMISSIONER MANION:
5 Through our corporation tax audit. It's
6 unitary, so it requires that they combine all
7 of their associated businesses.

8 SENATOR KRUEGER: Then -- sorry. One
9 more question and I'll be done.

10 In your testimony you said that the
11 Governor is giving you the authority to
12 recover inappropriately claimed STAR
13 exemptions. How much money is out there that
14 you don't have the power now to collect that
15 you think you'll be able to collect?

16 EXEC. DEP. COMMISSIONER MANION: It
17 would be \$80 million with the information we
18 have now. However, there are still some
19 things in the works.

20 SENATOR KRUEGER: So you think there's
21 even more that you could be collecting?

22 EXEC. DEP. COMMISSIONER MANION:
23 Potentially. I think the \$80 million is the
24 majority of it.

♀ 74

1 SENATOR KRUEGER: Thank you very much.
2 EXEC. DEP. COMMISSIONER MANION: Thank
3 you.

4 CHAIRMAN FARRELL: Senator?

5 CHAIRMAN DeFRANCISCO: This is the
6 lightning round: Very quick, precise
7 questions and answers.

8 There's a reappropriation in the
9 budget to complete the contract with
10 SourceHOV.

11 EXEC. DEP. COMMISSIONER MANION: Yes.

12 CHAIRMAN DeFRANCISCO: Have any
13 differences between the state and that
14 company been resolved through a settlement?

15 EXEC. DEP. COMMISSIONER MANION: We're
16 no longer working with SourceHOV, and we've
17 been able to work out of that contract.

18 CHAIRMAN DeFRANCISCO: Okay. So is
19 the reappropriation to pay part of what --

20 DTF GENERAL COUNSEL HILLER: We've
21 already concluded -- we've -- SourceHOV is no
22 longer processing for us. We still have some
23 final contract issues that we're closing down
24 with them. And the reappropriation is to

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1 cover final payments for the processing work
2 that they did do in 2014.

3 CHAIRMAN DeFRANCISCO: All right.
4 Because of any issues, did you get them to
5 reduce what you should have owed them if
6 they'd completed their contract properly?

7 DTF GENERAL COUNSEL HILLER: We
8 settled the work that -- we settled 2013
9 already, which was the year of the most
10 significant processing failures. Last year
11 we in-housed a large proportion of our paper
12 processing, and this year we'll be -- it will
13 be fully processed in-house.

14 But SourceHOV did do some processing
15 last year, and so we're just working out the
16 final payment issues.

17 CHAIRMAN DeFRANCISCO: Okay. But it
18 was resolved, anyway.

19 EXEC. DEP. COMMISSIONER MANION: Yes.

20 DTF GENERAL COUNSEL HILLER: Yes.

21 CHAIRMAN DeFRANCISCO: Okay.
22 Secondly, there's something in the budget for
23 a \$4.1 million new cigarette-tax task force.
24 Do you know anything about what's the plan?

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1 EXEC. DEP. COMMISSIONER MANION: Yeah,
2 we have a cigarette strike task force that
3 was actually started last year. And we
4 started it last year because it required
5 joining forces with many local and federal
6 and other state enforcement entities that are
7 looking to combat the illicit tax -- and the
8 idea there is to stop the influx of the

9 untaxed cigarettes into New York State and
10 also to be able to track the money.

11 So this partnership with this task
12 force gives us insight into all the federal
13 systems and the multistate systems so that we
14 can track where the money is going and really
15 stop it from happening at the root.

16 CHAIRMAN DeFRANCISCO: Okay. Since
17 the cigarette taxes have been going up
18 progressively over the years, has there been
19 a decrease in net tax collected?

20 EXEC. DEP. COMMISSIONER MANION: The
21 tax collected has gone down. It's not clear
22 there's -- also the number of people smoking
23 has gone down too. So there are a number of
24 different factors that go into why.

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1 CHAIRMAN DeFRANCISCO: Okay. Could
2 you, say over the last five years, give me
3 the amount of taxes collected by the
4 cigarette tax?

5 EXEC. DEP. COMMISSIONER MANION: I can
6 get that for you, yeah.

7 CHAIRMAN DeFRANCISCO: Thank you.

8 CHAIRMAN FARRELL: Thank you.

9 The Executive Budget proposes a
10 variety of tax reforms, credits and
11 enforcement actions that are expected to
12 result in a revenue loss of \$227 million in
13 the 2016-2017 fiscal year, \$1.4 billion by
14 state fiscal year 2018-2019. Key proposals

15 include a circuit breaker credit for
16 homeowners and an education tax credit, which
17 you have spoken about, and various program
18 extensions and significant tax enforcement
19 actions.

20 Question one, you were talking about
21 all the other money that we're going to save.
22 How do those numbers run against the 227 and
23 the 1.4 billion? Is there any close reality
24 one to the another?

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1 EXEC. DEP. COMMISSIONER MANION: Well,
2 there are a lot of different factors that go
3 into --

4 CHAIRMAN FARRELL: How much are you
5 saving versus how much are you giving away?

6 EXEC. DEP. COMMISSIONER MANION: The
7 budget includes a number of pluses and
8 minuses, as we've seen here today. Are you
9 looking for the net or --

10 CHAIRMAN FARRELL: No, I'd just like
11 to know how much -- of all the things you've
12 been talking about this afternoon, how much
13 millions is that, or is it millions that
14 you're saving?

15 EXEC. DEP. COMMISSIONER MANION: It is
16 millions that we expect to have in savings.
17 So what I can do is I can get back to you as
18 to how much the savings are.

19 CHAIRMAN FARRELL: Yeah, I'd like to
20 see how it correlates to the amount of money

21 that we're giving back.

22 EXEC. DEP. COMMISSIONER MANION: Okay.

23 CHAIRMAN FARRELL: And can you discuss
24 the tax implications between the different

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1 levels of taxpayers' income classes as well
2 as the efficiency implication of the
3 Executive's overall revenue proposal?

4 EXEC. DEP. COMMISSIONER MANION:
5 Can -- can you tell me what the question was?

6 CHAIRMAN FARRELL: That was the
7 question. It's a little -- I have very good
8 writers for me.

9 (Laughter.)

10 EXEC. DEP. COMMISSIONER MANION: I
11 want to make sure I'm answering.

12 CHAIRMAN FARRELL: Did you get it?

13 EXEC. DEP. COMMISSIONER MANION: I'm
14 not clear -- I'm not sure as to --

15 CHAIRMAN FARRELL: Can you discuss the
16 tax implications between the different levels
17 of taxpayers' income classes as well as the
18 efficiency and implication of the Executive's
19 overall revenue proposal?

20 EXEC. DEP. COMMISSIONER MANION: Well,
21 the tax implications, when we're talking
22 about the real property tax credit, that is
23 for the low and middle class -- middle-income
24 people. There are a number of different

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1 things that could impact people of different
2 income levels. Because there are so many
3 factors involved there, it's not easy to --

4 CHAIRMAN FARRELL: So you don't know
5 which level each one is at.

6 EXEC. DEP. COMMISSIONER MANION: I
7 don't have that information as to what level,
8 no.

9 CHAIRMAN FARRELL: Can we sort of get
10 something on that?

11 EXEC. DEP. COMMISSIONER MANION: We'll
12 look to see if we can pull it together.

13 CHAIRMAN FARRELL: Yeah, I'd like to
14 see the level.

15 EXEC. DEP. COMMISSIONER MANION:
16 Because we don't really know until people
17 start filing their taxes. Things change --

18 CHAIRMAN FARRELL: But you can tell by
19 the class that they're actually earning to
20 get to these programs.

21 EXEC. DEP. COMMISSIONER MANION: We
22 can make some implications, yeah.

23 CHAIRMAN FARRELL: All right.
24 Any further questions?

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1 Yes, Mr. Thiele. To close.

2 ASSEMBLYMAN THIELE: Good morning.

3 EXEC. DEP. COMMISSIONER MANION: Good
4 morning.

5 ASSEMBLYMAN THIELE: I have a question
6 about sales tax, state sales tax on motor

7 fuels, on gasoline. Back in 2006 when
8 gasoline was \$4 and \$5 a gallon, we capped
9 the state sales tax at 8 cents, which
10 effectively was at the 4 percent, or \$2 a
11 gallon.

12 Now that before taxes gasoline
13 prices are below \$2, in essence we are taxing
14 a gallon of motor fuel at more than
15 4 percent, to be a higher rate than anything
16 for sales taxes.

17 Has any thought been given to maybe
18 changing that now so it's 4 percent or
19 8 cents, whichever is less?

20 EXEC. DEP. COMMISSIONER MANION: It's
21 not in this budget, so ...

22 And with the gas prices changing all
23 the time, I don't think it was really
24 expected that it would go this low, so ...

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1 ASSEMBLYMAN THIELE: Well, I don't
2 know anybody in 2006 expected that it would
3 be below \$2. I think it's kind of an
4 unintended consequence that now the tax rate
5 is actually higher than the flat rate. So
6 I'm just wondering whether or not -- you
7 know, it probably -- maybe a penny a gallon
8 or something like that right now. But it may
9 be something you might want to consider,
10 that's all.

11 EXEC. DEP. COMMISSIONER MANION:
12 Understood. Thank you.

13 CHAIRMAN FARRELL: Thank you very
14 much.

15 EXEC. DEP. COMMISSIONER MANION: Thank
16 you.

17 ASSEMBLYMAN OAKS: We've been joined
18 by Assemblyman Walter.

19 CHAIRMAN FARRELL: Empire Center for
20 Public Policy, Edmund J. McMahon, president.

21 MR. McMAHON: Good morning,
22 Assemblyman Farrell, Senator DeFrancisco,
23 other Senators and Assemblymember on the
24 committees. Thank you very much for allowing

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1 me to testify today.

2 Last year, as part of the fiscal 2015
3 budget, you approved New York's first
4 permanent, broad-based state tax reductions
5 and reforms since before the start of the
6 Great Recession. The changes you made to the
7 corporation franchise tax and estate tax
8 codes will help make New York a more
9 attractive and competitive place to live,
10 work and do business. And that's a goal I
11 know we all share.

12 However, there remains much to do.
13 Looking ahead, the Legislature should
14 consider its tax policy options in the
15 context of all the tax actions enacted by the
16 state since the onset of the Great Recession.

17 In 2009 and 2010, the state raised
18 taxes and fees by a total of \$7 billion,

19 which is not only the largest tax increase in
20 the state's history, taken together, but one
21 of the largest tax increases enacted by any
22 state during the economic downturn. And on
23 top of this, separately, there was the
24 targeted tax increase throughout the New York

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1 City region for the MTA.

2 An array of tax cuts enacted since
3 2011, many of them only temporary, have at
4 least partially rolled back the immediate
5 post-recession increases. However, it's
6 important to realize that the state's tax
7 burden has been redistributed and on net not
8 reduced.

9 For example, personal income tax
10 collections this year will continue to be at
11 least \$2 billion higher than they would have
12 been under the permanent law in effect as of
13 2008. The effective income tax rate, which
14 is tax receipts as a share of personal
15 income, is well above the average level
16 between 2002 and 2008 and near its highest
17 point ever.

18 Now the most significant tax change
19 proposed in Governor Cuomo's latest executive
20 budget, as you've been discussing with the
21 tax department, would create a new personal
22 income tax credit designed to drive
23 \$1.7 billion a year in subsidies to roughly
24 2 million homeowners throughout the state,

1 and a smaller number of renters, mostly in
2 New York City.

3 The credit is supposed to serve as a
4 circuit breaker, as you know, for those whose
5 property tax exceeds 6 percent of their
6 income, for those earning up to \$250,000 with
7 slightly different parameters or somewhat
8 different parameters for renters. There's a
9 geographic disparity inevitably, unavoidably,
10 when you create a credit like this. The
11 largest average savings inevitably will flow
12 to downstate residents, residents of
13 downstate suburbs, where property values are
14 highest and taxes are typically a larger
15 share of income and income taxes are also
16 highest.

17 The credit also is likely to
18 disproportionately benefit older, retired
19 homeowners, who are most likely to be living
20 on reduced incomes in homes that are worth
21 many times what they originally paid for
22 them. By the same token, senior citizens, of
23 course, are also more likely to have paid off
24 their mortgages and thus have lower monthly

1 expenses. In this sense, the proposal
2 entails yet another form of intergenerational
3 wealth transfer to the retired from younger,
4 higher-earning workers.

5 Now, as you've also been discussing,

6 obviously the state already funds a very
7 significant homeowner property tax break in
8 the form of the \$3.4 billion STAR program,
9 which gives school districts aid to, in turn,
10 pay for a partial homestead exemption.
11 Enhanced STAR benefits are available to most
12 homeowners 65 or older, the same group of
13 people who are likely to benefit
14 disproportionately from the proposed credit.

15 The other changes the Governor has
16 proposed to the existing STAR law are
17 expected to reduce annual STAR outlays by a
18 total of \$280 million by fiscal 2019.
19 Nonetheless, even at that reduced level, if
20 the Governor's proposal is enacted, the state
21 by 2018 will have not one but two homeowner
22 property tax subsidy programs costing a total
23 of nearly \$5 billion a year.

24 Both STAR and the proposed property

♀

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1 tax credit are subsidies designed to treat a
2 symptom rather than dealing with the
3 underlying disease. You will be applying
4 \$1.7 billion in Band-Aids on top of
5 \$3.1 billion worth of aspirin.

6 Instead of creating yet another state
7 property tax subsidy, the state should
8 instead reconsider -- and the Legislature
9 should reconsider -- a few basic questions.
10 If your policy goal is to provide, across the
11 board, homeowner relief based on property

12 values, then STAR represents the best
13 approach.

14 On the other hand, if you aim to help
15 only those homeowners who literally find
16 their taxes to be unaffordable, in the word
17 so often used, then a circuit breaker is the
18 better way to go.

19 But New York doesn't need both
20 approaches, certainly not funded at this
21 level, especially now that the property tax
22 cap is clearly doing its job of holding down
23 tax levy increases, especially at the school
24 district level.

♀

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1 The best way to help all property
2 owners, homeowners and businesses alike, is
3 to permanently enact the tax cap, whose fate
4 is now tied to the continuation of the
5 otherwise unrelated rent control laws.
6 Instead of creating new and superfluous tax
7 breaks, the Legislature should consider other
8 tax priorities that I would argue would do
9 more to boost the tax-competitiveness of the
10 state.

11 One example, to start on a relatively
12 smaller scale, the Governor's budget includes
13 necessary technical corrections to the
14 revised estate tax provisions you enacted
15 last year. This is an opportunity for you to
16 also repair a glaring problem still embedded
17 in the law.

18 Now, as you know, prior to last year's
19 cut the state was one of the few states to
20 have any estate tax, and it affected estate
21 values starting at just over \$1 million. By
22 raising the tax exclusion, in stages, over
23 the next five years to match the federal
24 exclusion, which is now \$5.4 million, you're

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1 going to be producing a great deal of relief
2 and freedom from taxation from literally
3 hundreds of thousands of families, small
4 businesses, and farms -- many of which
5 probably don't suspect that they would have
6 been subjected to this tax.

7 However, the final legislation -- and
8 this is not included in the Governor's budget
9 fix -- the final legislation also preserves
10 outdated aspects of the old law, including
11 what's been called a steep tax "cliff." The
12 result, as one leading accountant and estate
13 lawyer noted, is a confiscatory 164 percent
14 marginal New York tax rate on estates valued
15 at between 100 and 105 percent of the federal
16 exclusion amount.

17 The technical fixes required as part
18 of the next budget give you an opportunity to
19 fix that problem so that the estate tax on
20 the state level, like the estate tax on the
21 federal level, features a true tax threshold
22 rather than a vertical cliff. Remember, the
23 cliff really affects the people who are at

24 the very lowest end of those estate values.

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1 And while \$5 to \$6 million is a lot larger
2 than \$1 million, it doesn't take much for the
3 owner of a small capital-intensive business
4 to have assets of that value.

5 A second and much broader set of
6 concerns is presented by the many loose ends
7 in New York States personal income tax code.
8 In December 2011 the Legislature extended,
9 and again in 2013 extended a significantly
10 higher tax bracket for taxpayers earning
11 \$1 million or more, or \$2 million for joint
12 filers, combined with rate cuts for filers
13 earning between \$40,000 and \$300,000 on a
14 married-joint basis, and a long-overdue
15 indexing tax brackets to inflation. But all
16 of these changes are temporary, set to expire
17 at the end of 2017.

18 Now, New York's temporary higher
19 income top rate is among the highest imposed
20 in any state, and it's an economic negative
21 because it creates a disincentive to work,
22 save and invest here. The personal income
23 tax is also an integral part of the business
24 tax climate because a significant number of

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1 firms, including sole proprietorships,
2 partnerships, and S corps, are subject to
3 this tax. New York's small businesses in

4 particular would benefit from a more
5 competitive and predictable -- and I would
6 stress, given the temporary nature of the tax
7 structure now, predictable -- income tax
8 structure.

9 Economic considerations aside, fiscal
10 stability is another substantial reason for
11 you to begin phasing out the so-called
12 millionaire tax. Twenty years ago, at the
13 end of Governor Mario Cuomo's tenure, the
14 personal income tax was 51 percent of our
15 state tax receipts.

16 By the way, 15 years earlier when the
17 tax was at its all-time high, it was only 45
18 percent of our tax receipts. This year, it's
19 going to be 63 percent of tax receipts, which
20 is itself an all-time high. And it's
21 expected to rise even further, to 64 percent
22 in 2017. We're more reliant -- among the
23 states that have personal income taxes, we
24 are more reliant on the personal income tax

♀

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1 to balance our budget than all but a couple
2 of states.

3 About 43 percent of the personal
4 income tax receipts now come from the top
5 1 percent of tax filers. That's people whose
6 incomes begin just below \$1 million. That
7 means 27 cents out of every tax dollar you
8 raise from every source comes from about
9 100,000 tax filers. That's not a great

10 number in a state with 19 million people and
11 a \$1.3 trillion economy. Many of them are
12 business owners or investors and, by nature,
13 also include a lot of footloose business
14 decision-makers.

15 Now, there are clear risks associated
16 with depending so heavily on such a small
17 number of taxpayers. When high-income
18 households have a bad year, the entire state
19 government suffers fiscal stress. And that
20 happened between '01 and '03, and it happened
21 again '08 and '09, and you are more dependent
22 on those taxpayers now than you were then.
23 And in that case, we're far more dependent on
24 high-income -- on the top 1 percent of

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1 taxpayers than any state with an income tax
2 except California. So that is not a stable
3 situation and a sustainable situation for the
4 future.

5 In sum, the best way to build on last
6 year's progress in reducing New York's tax
7 burden would be to eliminate the confiscatory
8 "cliff" in the reformed estate tax, to
9 permanently enact across-the-board and
10 currently-temporary cuts in personal income
11 taxes in the middle-class brackets, and to
12 adopt a schedule for phasing out the
13 temporary tax increase on the highest income
14 individuals and businesses.

15 And while it may not be an immediate

16 Executive Budget issue, the best way to offer
17 a promise of lasting property tax relief --
18 or at least the starting point -- would be
19 through the permanent enactment of a property
20 tax cap.

21 Thank you very much, and I'd be happy
22 to take any questions.

23 CHAIRMAN FARRELL: Thank you.

24 Anyone on the Assembly, on our side?

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1 CHAIRMAN DeFRANCISCO: Senator
2 Krueger.

3 SENATOR KRUEGER: Good morning, E. J.
4 Thank you for testifying.

5 So you talked about the STAR tax
6 credit, the circuit breaker, you would have
7 two -- you highlighted in your testimony the
8 STAR tax credit, the way it's set up, seems
9 to disproportionately be of value to senior
10 citizens in home ownership, even though they
11 may have already paid off their mortgages,
12 and isn't means-tested related to a tax
13 burden putting them at risk.

14 If we got rid of the STAR program,
15 what do you think we would see afterwards?

16 MR. MCMAHON: Well, the current STAR
17 program? Well, the current STAR -- what you
18 would have is, if you wiped away STAR
19 overnight, it would have a noticeable impact
20 on the real estate markets. Because I think
21 the value of STAR, again especially

22 downstate, is capitalized into the values of
23 homes. Look at real estate ads, and they'll
24 say here's what tax is with and without STAR.

♀

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1 I think, in fact, there were some
2 local studies done, when STAR was being
3 implemented, that it was having an effect on
4 prices of real estate, for instance in the
5 Hudson Valley, because it had such a notable
6 impact on taxes.

7 So if you wiped it out all at once,
8 you'd have an effect on real estate values.
9 It's interesting, the Governor's approach of
10 phasing it out is interesting in that
11 respect.

12 In other words, I've never --
13 personally, I've not been a great fan of STAR
14 for a number of reasons, but I think it might
15 be disruptive to get rid of STAR now,
16 certainly -- a lot of people have gotten used
17 to it and live with it. There are seniors
18 who really need STAR and count on it to make
19 ends meet.

20 There are seniors who get enhanced
21 STAR who arguably have no need of it and
22 would be fine without it. The problem is
23 both programs can't fine-tune themselves to
24 picking out automatically, as it were,

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1 somebody who has real need no matter how you
2 define it. The closest thing to full-blown

3 means testing is a circuit breaker.

4 If you say our goal is -- we have this
5 chunk of money and we want to help people who
6 can't afford their taxes, then you take the
7 more means-tested approach, while
8 understanding that if you have a statewide
9 circuit breaker, you're still not going to
10 have an even effect.

11 You're still not going to have -- not
12 going -- you're still not going to avoid
13 circumstances where the retired couple who
14 are doing fine paying their bills get an
15 extra tax break for the house they paid off
16 while the middle-aged couple in their prime
17 earning years next door with three children,
18 one heading into college, who live in the
19 identical house, get no break. That's just
20 the way it will happen. More likely upstate
21 than down, by the way.

22 But if, you know -- I think STAR has
23 more of an effect on real estate values than
24 a circuit breaker would. But they're both --

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1 there's two discussions you need to have, is
2 do we want to do this at all? That is,
3 subsidize property taxes to the tune of
4 billions of dollars. Then, secondly, what's
5 the policy goal which should shape how you do
6 it?

7 SENATOR KRUEGER: Thank you.

8 You also testified about what you see

9 as the negative impact of having higher
10 personal income taxes compared to history.
11 Is it also, though, true that we have lower
12 corporate and business taxes now than we had
13 in those same historic periods?

14 So we've traded decreasing corporate
15 taxes and increasing PIT and you would say, I
16 guess, also, from your testimony, the estate
17 tax issue. Are we better off getting -- we
18 spend about \$2 billion a year in business tax
19 credits. Would we be better off doing away
20 with the business tax credits and being able
21 to lower PIT? Would that meet the criteria
22 for you in a more effective way?

23 MR. MCMAHON: As another witness here
24 said last week, that's a very good question.

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1 I think yes, it would actually, for
2 the most part, be better. I think many of
3 the business tax credits are highly
4 questionable. I think there was some work
5 done by and on behalf of the Governor's
6 Solomon Commission a couple of years ago that
7 called into question whether many of those
8 business tax credits are justifiable.

9 And I do think it would be worth
10 taking a look at many of those credits to
11 determine -- to get rid of them and basically
12 use the proceeds to help restore the personal
13 income tax code to its prior level, the top
14 rate to its prior level.

15 SENATOR KRUEGER: Thank you.
16 CHAIRMAN FARRELL: Thank you. Thank
17 you very much.
18 I'm sorry. Senator?
19 CHAIRMAN DeFRANCISCO: Sit down. Sit
20 down. Don't go off too far.
21 Do you have handy -- and I don't mean
22 today, but to provide to us the least useful
23 tax credits that would be -- that would be
24 something that we could transfer over towards

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1 reducing the income tax?
2 MR. MCMAHON: Oh, I think no credit
3 combines expense and lack of net economic
4 value more than the film and motion picture
5 TV credit.
6 CHAIRMAN DeFRANCISCO: You're
7 absolutely right.
8 MR. MCMAHON: And I think that there's
9 an increasing array of research to support
10 that point of view.
11 The contention behind the credit --
12 the credit is based on the presumption that
13 none of the employment and production that
14 occurs in New York would occur without it. I
15 think now more than ever, that's clearly not
16 true. And I think it's been carried to a
17 ridiculous extent and that it should be the
18 first target for elimination. And it would
19 free up \$400 million a year ultimately for
20 broad-based tax reduction.

21 CHAIRMAN DeFRANCISCO: Okay, could you
22 speak up just a bit?

23 MR. MCMAHON: Yes.

24 CHAIRMAN DeFRANCISCO: But now this

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1 cliff that -- the cliff in the estate tax,
2 would you just explain what the cliff is, how
3 it works, and why it's a bad thing?

4 MR. MCMAHON: At the risk of
5 oversimplifying a bit, our estate tax was
6 designed for another era. It was designed to
7 fit into a niche in the federal estate tax as
8 it stood in 1999 and 2000 and to create an
9 amount of state tax that fully equaled the
10 maximum federal pickup credit as it used to
11 be under the old federal estate tax.

12 So it's not the way you would write
13 the tax if you were just creating an
14 independent estate tax or if you wanted to
15 complement, if there is such a thing, the
16 current federal tax. It combines our own
17 exclusion with our own rate table.

18 What it effectively does -- because
19 the old federal estate tax is gone, was
20 phased out in the 2000s, and has been
21 replaced by a new, streamlined federal estate
22 tax that in certain key respects is very
23 different from the old one. The new one, to
24 oversimplify a bit, is essentially like a

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1 flat tax that applies to your entire estate
2 once you get past a certain range of the
3 threshold. So you have an estate that's a
4 little beyond whatever the federal threshold
5 is in 2019, \$6 million, the whole estate is
6 subject to our tax.

7 The federal tax doesn't work that way.
8 It works the way you would assume a tax
9 works. That is, the federal government has a
10 rate table, it has an array of rates starting
11 very low and going up to a certain level --
12 I actually forget what the top level is, but
13 it's lower than it used to be. And the first
14 several hundreds of thousands of dollars are
15 at the lowest rate and it goes up, just like
16 a personal income tax code does.

17 But our state tax basically clobbers
18 you with the full brunt of the tax on the
19 whole estate once you're a little bit beyond
20 the exclusion point.

21 CHAIRMAN DeFRANCISCO: So if the
22 exclusion is \$5 million and you have
23 \$4.9 million in assets when you die --

24 MR. MCMAHON: No estate tax.

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1 CHAIRMAN DeFRANCISCO: -- exempt from
2 New York State estate. If your gross estate
3 is \$5.1 million --

4 MR. MCMAHON: Still none. Well, if it
5 was \$5 million, the exclusion --

6 CHAIRMAN DeFRANCISCO: -- the

7 exclusion --

8 MR. MCMAHON: If you get 5.1 or 5.2,
9 all of a sudden, whammo, you've got the tax
10 on the whole --

11 CHAIRMAN DeFRANCISCO: That's the
12 point. On everything.

13 MR. MCMAHON: Yes. On everything,
14 right.

15 CHAIRMAN DeFRANCISCO: Including the
16 first \$5 million.

17 MR. MCMAHON: Right. And nobody --
18 that's a really -- obviously, a really bad
19 tax. Nobody would design a tax that way.

20 We didn't design it that way for any
21 good reason. It was simply an artifact of
22 the way that our estate tax used to fit into
23 the old federal estate tax. And it really is
24 indefensible.

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1 I talked to -- one of my motivations
2 here is there's a small businessman who owns
3 a small manufacturing plant in the Albany
4 area -- this is not somebody you would --
5 this is not, you know, a global
6 mega-billionaire. But when you have a
7 capital-intensive small business, you can
8 easily have a business that you're looking to
9 pass along that's worth \$6 million or
10 \$7 million, or will be by 2019.

11 If that asset value is a little above
12 the federal exclusion level, then that's

13 going to make the difference between that
14 business owner being able to pass along the
15 business to his heirs or have to break it up
16 and sell it. Because it means the most for
17 illiquid assets that are close to -- are on
18 the bubble.

19 CHAIRMAN DeFRANCISCO: So if that
20 weren't enough of a reason for people to
21 leave the state, if you have some assets --
22 you're saying, according to your report here,
23 that 23 percent of all of the personal income
24 taxes are paid by 200-and-something --

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1 MR. MCMAHON: Forty-three percent are
2 paid by about 100,000.

3 CHAIRMAN DeFRANCISCO: About 100,000
4 taxpayers.

5 MR. MCMAHON: About 100,000 filers,
6 right.

7 CHAIRMAN DeFRANCISCO: Filers. One
8 hundred thousand filers pay 43 percent of the
9 income tax.

10 MR. MCMAHON: Yes.

11 CHAIRMAN DeFRANCISCO: That doesn't
12 seem fair to you, does it?

13 MR. MCMAHON: Well --

14 CHAIRMAN DeFRANCISCO: I mean, if you
15 want to keep these people to pay some taxes,
16 there's a breaking point, I would assume,
17 when someone would say when it this gets to
18 60 percent of the taxes are paid by

19 90,000 people, at some point some of these
20 are going to say "What am I doing here?"

21 MR. MCMAHON: Here's the point.
22 People would argue, could argue all day on
23 what's fair and what isn't fair. Those
24 people have about 24 percent of the adjusted

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1 gross income, for instance, so they pay
2 43 percent of the income tax because it's a
3 progressive income tax. So the tax goes
4 where the income is.

5 But the point is, if you feel good
6 about taxing high-income, very-high-income
7 people at a very high level, you should also
8 feel concern about having so much of the
9 state budget -- and in fact your fiscal
10 future, the plans you're making in the budget
11 in every way -- dependent on a small number
12 of people who can -- who basically, if a
13 small number decide to shift their residences
14 in greater numbers, you've got an impact. Or
15 if a small number, if they have a bad year --
16 which is what happened twice in the last
17 decade -- you've upset the whole budget.

18 CHAIRMAN DeFRANCISCO: Thank you.

19 Oh, wait, one other thing. No, I
20 already asked it. I already asked it.

21 (Laughter.)

22 CHAIRMAN DeFRANCISCO: Thank you.

23 CHAIRMAN FARRELL: Thank you very
24 much.

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1 Next, Ron Deutsch, executive director,
2 Fiscal Policy Institute.

3 MR. DEUTSCH: Thank you all very much,
4 distinguished members of the fiscal
5 committees and other Assembly and Senate
6 members who are here today. I appreciate the
7 opportunity to have my 10 minutes with you a
8 year, all together.

9 I wanted to talk a little bit about
10 the circuit breaker and the education tax
11 credit. But given the conversation that just
12 occurred, I can't seem to control myself, and
13 I'm going to have to address just some of the
14 points that were made.

15 I grant you the fact that wealthy
16 individuals pay a large share of the personal
17 income tax, but you should keep in mind that
18 the top 1 percent in New York, in particular
19 in New York City, get about 44 percent of all
20 the income in New York City, and in New York
21 State they get about 33 percent of all the
22 income generated. So this notion that
23 somehow the wealthy are doing poorly or are
24 going to flee New York, I think, is a little

♀

1 ridiculous.

2 And I think the number of millionaires
3 in New York has actually been growing, it's
4 not shrinking. So this notion that somehow
5 since we've increased the top marginal rate

6 to 8.82 percent for people making over
7 \$2 million a year -- they are not fleeing
8 New York in droves for Mississippi or for
9 Florida, and quite the opposite is occurring.

10 And we talk about the fact that it's
11 paid by 100,000 taxpayers with incomes over a
12 million dollars -- keep in mind, about half
13 of those are not New York State residents,
14 they are out-of-state residents that pay
15 New York State taxes because this is where
16 they make their millions of dollars.

17 So with that in mind, I would also
18 suggest that we should also recognize the
19 fact that since the recession, literally
20 100 percent of all the income gains have gone
21 to the top 1 percent of New Yorkers. The
22 bottom 99 have actually seen a decrease.
23 So keep in mind, their incomes have grown
24 about 32 times that of the 99 percent.

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1 So with that said, I would also remind
2 you that if we look at who's paying taxes in
3 terms of state and local taxes and we look at
4 the different quintiles in New York, we
5 should realize that the top 1 percent pay a
6 smaller percentage of their income in state
7 and local taxes than do the rest of us. The
8 vast majority of middle-income taxpayers pay
9 between 10 and 12 percent of their income in
10 state and local taxes, whereas the 1 percent
11 pay about 8 percent of their income in state

12 and local taxes.

13 And I think this recognizes the
14 problem that middle-income taxpayers are hit
15 harder by property taxes and by sales taxes
16 than they are by income taxes. And the tax
17 changes that we made, the "millionaire's" tax
18 changes that we made to the personal income
19 tax structure, the so-called middle-class tax
20 cuts that are contained in that are very,
21 very small for the average working New
22 Yorker.

23 Whereas when you had an income between
24 \$500,000 and \$2 million, the changes we made

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1 in 2011 reduced those people's taxes by about
2 24 percent, so they saw a large tax cut. I
3 wouldn't consider someone between \$500,000
4 and \$2 million middle class.

5 But with that said, let's move on to
6 the fact of the circuit breaker, which my
7 friend E. J. called a Band-Aid. I would
8 suggest it's much more of a lifeline to
9 people who desperately need it right now.

10 The Governor has taken some great
11 strides forward, I think, in putting this
12 circuit breaker together the way it's
13 structured right now. Is it the ideal
14 circuit breaker that I and my members of the
15 Omnibus Tax Consortium, groups like Tax
16 Nightmare, New York State Property Tax Reform
17 Group, Tax Reform Effort of Northern

18 Dutchess, and many others across the state
19 have been calling for a circuit breaker for
20 years?

21 The reason is there are 700,000
22 households in New York with incomes below
23 \$100,000 a year that pay more than 10 percent
24 of their income in property taxes. There's a

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1 quarter million with incomes below \$50,000
2 that pay more than 20 percent of their income
3 in property taxes. So what E. J. would call a
4 Band-Aid I again would say is a lifeline to
5 many of these families.

6 And this notion that somehow it's just
7 seniors that are going to get this benefit,
8 or people in downstate suburbs, I think is
9 also misguided. In fact, I put together some
10 examples.

11 So, if you will, a family with three
12 children with the average median income in
13 that county of about \$49,000 in the Town of
14 Greenwich, that has a house valued at about
15 195,000, pays about \$6,442 in property taxes.
16 Once fully phased-in under the circuit
17 breaker, that family would receive a property
18 tax credit of about \$1,751, or a 27 percent
19 decrease in their property tax burden. That
20 is significant, and it's certainly nothing to
21 scoff at.

22 A family in Amherst, in the Amherst
23 School District in Erie County, out in

24 Western New York, has an income of about

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1 \$60,000, a home value of about \$149,000, and
2 taxes of about \$5,500. They would see about
3 a \$1,900 tax cut under the circuit-breaker
4 proposal -- or, rather, they would see a \$959
5 tax cut under the circuit-breaker proposal,
6 which represents about an 18 percent tax cut.

7 So clearly, these tax cuts are going
8 to go to people who need them the most.

9 And the circuit breaker is not a new
10 concept. Thirty-three states have circuit
11 breakers right now; most of them also include
12 renters. This bill would cover over a
13 million homeowners whose property taxes
14 exceed 6 percent of their income. The
15 circuit breaker is targeted so it provides
16 the most relief to people at the lower end of
17 the income spectrum. Our colleagues in the
18 Fiscal Policy Institute have long supported
19 this.

20 One of the problems that we see with
21 this is it's linked to the tax cap. So how
22 do you -- why would you condition tax relief
23 to people who need it on circumstances
24 outside of their control? It's not up to the

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1 individual taxpayer to decide whether their
2 town board or county government or school
3 district exceeds the tax cap. They shouldn't

4 be penalized for that. They should receive
5 the tax relief that they desperately need.

6 More also, I would also suggest that
7 in terms of the circuit-breaker tax credit,
8 we should also be looking at things like
9 increasing the residency requirement.
10 Currently it's six months. We might want to
11 consider going up from there. It would also
12 save some additional dollars.

13 But we also should look at making the
14 rent equivalent in this more like 20 percent
15 of property tax, because that's what many
16 economists suggest would be the proper
17 equivalent for something like that.

18 So moving on quickly, I would also
19 suggest that -- the Executive Budget includes
20 this education tax credit. I know the
21 Senate's passed a version as well. The
22 Governor's proposal provides a 75 percent
23 credit rate. The Senate proposal provides a
24 90 percent credit rate. Those are some

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1 pretty high credit rates for these type of
2 contributions.

3 I would also suggest that it's
4 potentially an abdication of your
5 responsibility as the Legislature to direct
6 where state dollars and state appropriations
7 go. You're handing that authority over to
8 potentially very wealthy individuals that
9 will decide where they want their dollars to

10 go -- or really where they want our tax
11 dollars to go, given the high credit rate
12 that you're providing them.

13 So Senator Krueger asked a question
14 earlier what the average charitable
15 contribution would be. On average, it's
16 about 5 percent. So you compare 5 percent to
17 75 percent to 90 percent. Why would an
18 individual, say, continue to give to their
19 local food pantry, their local anti-poverty
20 program, their local synagogue when they can
21 get 15 to 18 times the tax benefit by
22 contributing to one of these allowable
23 education institutions?

24 So I would also suggest, potentially,

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1 that this could be a violation of Section 7,
2 Article 7 of the State Constitution that
3 requires all appropriations to be distinctly
4 specified. So I would keep that in mind too.

5 So I would suggest that this has the
6 potential to have negative consequences in
7 charitable giving in other areas, and that
8 may be one of these unintentional
9 consequences that folks haven't thought of
10 yet, but may be part of this as well.

11 Very quickly, with my 45 seconds left,
12 I know I can't testify at the economic
13 development hearing because I'm only allowed
14 to testify at one, but I would strongly
15 suggest that you take a strong look at

16 START-UP NY and its impact and whether or not
17 this is a cost-effective program. We have
18 spent more on ads on this program than we
19 have been promised in capital investments by
20 the companies that are involved in it.

21 Right now the Governor is also looking
22 to expand it to airports in New York State.
23 So if you can imagine -- I mean, this harkens
24 back to the Empire Zone program, where it

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1 started with good intentions but then kept
2 expanding and expanding and expanding to the
3 point where it was kind of fraught with
4 waste, fraud, and abuse.

5 So I would suggest that you maybe hold
6 some hearings on this program to determine
7 whether or not it's the right program for
8 New York.

9 So thank you very much. I'd be happy
10 to answer any questions you might have.

11 CHAIRMAN FARRELL: Any questions?

12 CHAIRMAN DeFRANCISCO: Senator
13 Krueger.

14 SENATOR KRUEGER: Thank you for being
15 able to answer the question Tax and Finance
16 couldn't answer about what the difference is
17 between current charitable contributions
18 versus the tax credit under the education tax
19 credit. I was estimating 25 percent. I
20 appreciate your clarifying it's more like
21 5 percent --

22 MR. DEUTSCH: The average, yeah.
23 SENATOR KRUEGER: -- going up to I
24 think as high, in your testimony, as perhaps

♀ 116

1 you could reach maybe 9 percent, because you
2 gave me the answer that I wanted to be able
3 to again highlight. This will skew the
4 outcome of the concept of charitable giving
5 in this state.

6 And then actually Senator DeFrancisco
7 did follow-up questions about the time frame
8 you have to apply for these tax credits is, I
9 think, 15 days: January 1 through 15th.
10 Your typical New Yorker who might be
11 interested in a charitable donation is not so
12 likely to be able to file for a tax credit in
13 the first 15 days with Tax and Finance.
14 Would you agree?

15 MR. DEUTSCH: I would definitely
16 agree. I would think this is geared towards
17 wealthy individuals and corporations that
18 want to donate large sums to the schools of
19 their choice. Or the educational
20 institutions of their choice.

21 SENATOR KRUEGER: And I asked E. J.
22 McMahon -- I know that FPI is a strong
23 supporter of the -- not of STAR, but rather
24 of the circuit-breaker model. But I asked

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1 him what he thought the impact would be if we
2 just phased out STAR.

3 Were you listening? Do you agree with
4 that analysis?

5 MR. DEUTSCH: Yeah, I mean -- I think
6 property tax relief should be more
7 means-tested than it is. I think E.J. and I
8 have agreed in the past that STAR is not the
9 best way to deliver property tax relief to
10 people who need it, and that a circuit
11 breaker is the better approach.

12 But I think ultimately the problem is
13 that the state has not been a reliable
14 partner to local governments and/or schools.
15 And the fact that the state's share of school
16 funding is at historic lows, the aid and
17 incentive to municipalities also at historic
18 30-year lows -- these are things that we need
19 to be investing in.

20 But I would suggest too that the
21 2 percent self-imposed state spending cap is
22 part of the problem here. We're looking at
23 \$11 billion, potentially, in unspecified
24 outyear cuts through 2019 which ultimately

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1 fall down on public education, it falls upon
2 local governments, it falls upon human
3 services. So these outyear unspecified
4 cuts are also problematic because they're
5 going to create more pressure at the local
6 level as state funding continues to shrink.

7 SENATOR KRUEGER: And your testimony,
8 just on your recommendations towards the end,

9 you say to fix corporate tax reforms. So we
10 did make some changes to corporate tax reform
11 in state law last year. Your testimony says
12 the tax neutrality commitment of that has
13 actually cost us \$500 million.

14 In one year it's already cost us
15 \$500 million?

16 MR. DEUTSCH: I believe that's what
17 it's projected to cost over the next couple
18 of years.

19 But in reality, Mayor de Blasio has
20 also put forward a plan on corporate tax
21 reform that would conform to the state's
22 corporate tax reform, but he did it in an --
23 actually in a revenue-neutral way by making
24 sure that there was kind of an alternate

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1 minimum tax for New York City-based
2 corporations so that they couldn't simply
3 carry over losses or report paper losses and
4 not pay anything. So he did close some of
5 the loopholes that exist.

6 And we would urge the state to do
7 something similar in order to -- in
8 particular around our alternative minimum
9 tax.

10 SENATOR KRUEGER: Thank you very much.

11 CHAIRMAN FARRELL: Thank you. Thank
12 you very much.

13 MR. DEUTSCH: Thank you.

14 CHAIRMAN FARRELL: Mike Durant,

15 New York State director, National Federation
16 of Independent Businesses.

17 MR. DURANT: Good morning. Thank you,
18 Chairman DeFrancisco, Chairman Farrell, and
19 the other members of the Legislature here
20 today, for allowing me to testify on the
21 Governor's budget and the issue of taxes.

22 NFIB represents nearly 11,000 small
23 businesses all across the state encompassing
24 virtually every segment of our state's

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1 economy, from manufacturers to retail to
2 agribusiness, sole proprietors. The typical
3 NFIB member has five or fewer employees, and
4 more than half of our members report gross
5 sales of \$350,000 or less. It is on behalf
6 of those members that I am here today.

7 Our testimony is going to focus on
8 three aspects of the Governor's budget,
9 primarily the proposed small business tax
10 cut.

11 Starting quickly with the proposed
12 assessment on fully insured health insurance
13 plans. There is no shortage of stories
14 written about the small business experience
15 with regards to the Affordable Care Act, and
16 healthcare costs continue to be a top-tier
17 issue for our members. We're concerned that
18 this assessment will ultimately get passed
19 down and further increase costs on small
20 employers. It is always laudable to increase

21 healthcare coverage, but it does come with a
22 price tag. So we oppose this assessment and
23 urge its removal from any final budget
24 agreement.

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1 Our second, quickly, is on the
2 Governor's property tax proposal. Like last
3 year, NFIB strongly opposes the
4 circuit-breaker methodology. While the
5 Governor's rhetoric is on New York's property
6 taxes being too high, his mechanism of
7 addressing this problem continues to miss the
8 mark.

9 NFIB is a strong supporter of the
10 property tax cap. In fact, we would urge the
11 tax cap to be made permanent this year, but
12 shifting the tax burden will never lead to a
13 serious discussion on addressing the costly
14 unfunded mandates that have led to the
15 problem in the first place. Further, the
16 absence of property tax relief for commercial
17 property only heightens the tax issues that
18 small employers face.

19 Additionally, the \$1.66 billion price
20 tag of this plan is a leap of faith paid for
21 by future budget surpluses that we may or may
22 not have. It is our continued position that
23 significant property tax relief should be a
24 priority but only based on addressing the

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1 root of the problem, not the potential fiscal
2 restraint of the state.

3 Which brings us to the proposed small
4 business tax cut. I ask that, when
5 negotiating this budget and considering small
6 business and their impact on our states
7 economy, that we consider a few facts:

8 Small business is adversely impacted
9 the most with the current mandated increase
10 in labor costs as well as the proposed hike
11 within this budget proposal.

12 There are more than 500,000 small
13 businesses, accounting for approximately
14 three million private sector employees and
15 accounting for 98 percent of all businesses
16 in the state.

17 New York currently provides
18 approximately \$420 million in tax credits for
19 the film and television industry.

20 New York currently provides more than
21 320 million in tax breaks through the
22 START-UP New York program, not including the
23 advertising of said program, aimed at
24 attracting businesses to our state.

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1 New York recently enacted
2 comprehensive tax reform aimed at reforming
3 our business tax climate, but it was targeted
4 to corporations, the banking industry and
5 manufacturers.

6 The Governor's proposal is a phased-in

7 reduction of the corporate tax rate for small
8 employers that meets specific criteria. In
9 total, this tax cut is approximately
10 \$32 million and would benefit 40,000 small
11 businesses out of more than half a million.

12 Our concern is not with the phased-in
13 approach, nor with the income and employee
14 thresholds. It is with the approach and
15 within the context of the investments made by
16 this state for economic development which
17 have less permanent impact on the present and
18 future economy of our state, the amount of
19 investment sent to attract narrow or
20 temporary employment opportunities at the
21 expense of the widespread employment small
22 businesses can and do provide.

23 More than 90 percent of small
24 businesses are set up as pass-through

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1 entities. The sole proprietors, subchapter S
2 corps, and partnerships do not pay the
3 corporate franchise tax. For these small
4 employers, pass-through business income is
5 taxed on the business owner's tax returns
6 through the individual income tax code. So
7 while the Governor has stated repeatedly that
8 if his plan were to be enacted, small
9 businesses would be paying the lowest taxes
10 since 1917, he is speaking about a very small
11 and specific group of small employers.

12 In fact, according to the Tax

13 Foundation, pass-through businesses account
14 for 59.3 percent of private-sector
15 employment, which is the ninth highest in the
16 country. These are the small businesses
17 being left out of the Governor's proposal and
18 have largely been shut out of the business
19 tax reform enacted last year.

20 While we support this proposal for our
21 members that may qualify, we strongly
22 advocate for a broad approach to small
23 business tax reform. In no way will the tax
24 climate for small business in this state be

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1 dramatically altered with this proposal.

2 NFIB would alternatively propose a
3 permanent and broad personal income tax
4 reduction. Not only would a reduction in
5 personal income taxes help sustain small
6 employers, it would positively benefit those
7 New Yorkers that need fiscal relief the most.

8 There are other approaches which would
9 be more beneficial than the Governor's plan
10 but unfortunately would muddy an already
11 convoluted tax code. From exemptions to
12 carve-outs, targeted tax reductions for small
13 businesses are possible and should be
14 considered.

15 As I previously stated, we have seen
16 massive tax breaks aimed at attracting
17 economic investment in New York through the
18 START-UP program. We have seen significant

19 tax reform targeting corporations and
20 manufacturers. We are dealing with one
21 phased-in minimum wage increase, a pending
22 for tipped employees, and another proposed
23 increase in this budget.

24 To say that NFIB members and small

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1 employers generally feel slighted is an
2 understatement. There is a never-ending push
3 in Albany to increase labor costs that impact
4 NFIB members the most, while they are
5 continuously excluded from positive tax
6 reduction efforts. This is a cycle that
7 directly threatens the collective largest
8 private-sector employers in this state.

9 If there was ever a time that the
10 Governor and Legislature could roll up their
11 collective sleeves to find sensible tax
12 reductions for small employers, I would say
13 it is now.

14 So I speak to you today with a sense
15 of urgency, but also with a dose of reality.
16 Small business needs this budget to be
17 sensible in its approach and broad in
18 positive tax impact. Anything less will
19 further threaten their viability and deepen
20 their resentment of the tax and economic
21 development policies that have been enacted
22 and pushed in Albany. There are sensible and
23 fiscally prudent solutions that will allow
24 small employers to flourish and lead to the

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1 economic resurgence we continue to look for
2 here in New York.

3 Thank you.

4 CHAIRMAN FARRELL: Thank you.

5 We've been joined by Assemblyman
6 Lavi ne and -- yes, Senator?

7 SENATOR KRUEGER: Thank you. We've
8 been joined by Senator Fel der.

9 CHAIRMAN FARRELL: Questions?
10 Senator.

11 SENATOR KRUEGER: Thank you.

12 Thank you. Good morni ng.

13 MR. DURANT: Good morni ng.

14 SENATOR KRUEGER: Would your
15 organi zati on -- I agree wi th your analysi s
16 that the small business tax credit the
17 Governor is offering will affect way too few
18 small businesses in thi s state.

19 And I want to just reemphasize your
20 poi nt that it's only a \$32 milli on deducti on,
21 total tax reduction, that will impact, you're
22 projecti ng, 40,000 small busi nesses. And you
23 say there are 500,000 small busi nesses, under
24 the cri teri a, under 100 empl oyees.

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1 MR. DURANT: Ri ght.

2 SENATOR KRUEGER: Would your
3 organi zati on support doi ng away wi th some or
4 all of the large business tax credi ts that
5 now total almost \$2 billi on a year i n lost

6 revenue in order to deal with a broader and
7 more equitable system for lowering the tax
8 rate for, I would say, your 500,000 small
9 businesses or the vast majority of businesses
10 in New York State?

11 MR. DURANT: The Solomon report issued
12 a couple of years ago talked about, at that
13 time, \$1.7 billion of tax credits targeted to
14 industry. Something that jumped out at me,
15 looking at this again last week, is
16 0.1 percent of those tax credits are claimed
17 by subchapter S corps, zero by sole
18 proprietors, and about 1.1 to 1.2 percent on
19 LLCs.

20 So to say that those tax credits are
21 targeting a very specific group of people and
22 excluding mine is an understatement.

23 I would think that -- yes, the film
24 and tax credit needs to be taken a look at.

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1 I think you could also, if we're going to
2 bank on the budget surplus, putting in a
3 circuit breaker, you could take a look at
4 that and take some funds from that and apply
5 them to more broad tax reform that would
6 impact small business there too. So we're
7 talking about money that is available.

8 But I think the film and tax credit,
9 the first one, jumps out. A \$32 million
10 small business tax cut phased in over three
11 to four years, versus \$420 million that we're

12 giving to Jimmy Fallon and his friends, is a
13 problem. And I think that small employers
14 equate to far broader impacts on the economy
15 than that is.

16 SENATOR KRUEGER: And you'll know this
17 better than I remember. What is the rate of
18 job creation in small businesses versus large
19 businesses in our state?

20 MR. DURANT: You're talking about over
21 3 million New Yorkers are employed by small
22 business. You're talking around probably
23 59 percent of the private sector workforce is
24 employed by small employers with 100 and

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1 fewer employees.

2 So I think, to my point, any economic
3 resurgence in our state, we need to
4 positively start finding sensible solutions
5 to their problems as opposed to targeted to
6 making a movie for that temporary employment
7 that's there for a, you know,
8 six-to-eight-month period of time.

9 SENATOR KRUEGER: Thank you.

10 MR. DURANT: Thank you.

11 CHAIRMAN FARRELL: Questions, further?

12 Thank you very much.

13 MR. DURANT: All right, thank you.

14 SENATOR KRUEGER: Thank you.

15 CHAIRMAN FARRELL: John Whitley,
16 legislative affairs officer, New York State
17 Property Tax Reform Coalition.

18 MR. WHITELEY: Good morning,
19 Assemblyman Farrell, Senator Krueger,
20 distinguished members. Thank you very much
21 for having me.

22 And for the record, I'm John Whitely,
23 legislative affairs officer of the New York
24 State Property Tax Reform Coalition, a

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1 volunteer advocacy group that represents the
2 interests of residents throughout the state
3 who seek property tax relief and reform
4 through state legislation.

5 I'll be focusing this morning on the
6 Governor's circuit breaker, which we're
7 enthused about, as you might expect.

8 But just first let me say that our
9 long-term objective remains the gradual
10 reduction of the continuing overuse of the
11 archaic and inequitable property tax as a
12 means of funding services in our state, and
13 to gradually replace with it a significant
14 increase in state funding, especially for
15 schools, more in keeping with the state's
16 constitutional obligations and the economic
17 realities of the 21st century.

18 The property tax hits hardest at the
19 middle class, contributing to its decline
20 amid a level of income inequality not seen
21 since the eve of the Great Depression. As
22 the Governor again pointed out most recently
23 in his State of the State address, we now

24 collect some \$50 billion in property tax,

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1 compared to \$40 billion from everything else.

2 The underlying need for systemic,
3 permanent reform that will centralize more of
4 the overall funding responsibility and
5 accountability at the state level is one of
6 the critical issues of our time. It needs to
7 be seriously addressed now, this session.

8 Unfortunately, the depth of the reform
9 needed will realistically take years to
10 design and complete. And for hundreds of
11 thousands more middle-class New Yorkers, it
12 will come too late to keep them in their
13 homes and in their state. That's why
14 Governor Cuomo's proposed new real property
15 tax credit, basically a circuit breaker, is
16 so extraordinarily important.

17 This is a truly significant
18 initiative. As most of you know, we've been
19 fighting for a circuit breaker for years as
20 an indispensable part of any property tax
21 relief program, and there have been excellent
22 bipartisan bills in both chambers. But this
23 is the first time we have seen such a
24 meaningful proposal in an Executive Budget.

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1 And we are grateful to Governor Cuomo for
2 recognizing the depth of anguish and
3 frustration of residents across the state

4 over the unreasonable burden imposed by this
5 miserable tax, and for his willingness to
6 take this initiative in response. In short,
7 we support this bill.

8 That doesn't mean it's perfect in
9 every respect, but much of what could make it
10 better would involve higher costs. A
11 particular example is the \$2,000 maximum
12 credit. We think if the bill is enacted as
13 is and the Tax Department monitors actual
14 circuit breaker usage, as the bill requires,
15 it will show a significant number of
16 households coming up woefully short of what
17 they really need -- and what the formulas
18 would otherwise provide.

19 But this bill will nonetheless provide
20 meaningful help to hundreds of thousands of
21 deserving New Yorkers who have waited too
22 long already. We can't let the search for
23 perfection betray their interests.

24 There is, however, one feature of the

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1 bill which causes us deep concern, because it
2 would exclude from circuit-breaker coverage
3 some of those who need it the most. And let
4 me explain.

5 One of the unique attributes of the
6 circuit breaker is that it goes to individual
7 households, based on the relationship between
8 their individual property tax and their
9 income, independent of the overall financial

10 well-being of their community. Some of our
11 most overburdened residents are found in
12 affluent towns or school districts, virtually
13 all of whom include a minority of homeowners
14 who are struggling.

15 The smaller that minority, the less
16 impact they have on school boards or
17 municipal leaderships, and the less ability
18 they have to muster even the 40 percent
19 strength needed to block an override of the
20 tax cap. And the greater the majority of
21 affluent residents, the greater the
22 likelihood they will override.

23 The struggling residents in these
24 communities, essentially powerless to prevent

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1 escalating budgets supported by the majority
2 or supermajority, are at least as vulnerable
3 to being forced from their homes as their
4 counterparts in less affluent communities --
5 perhaps even more so. Surely it's not
6 reasonable to exclude them from the lifeline
7 that only a circuit breaker can provide. But
8 by requiring a cap-compliant local budget,
9 this bill would do that.

10 We understand the basic rationale for
11 linking property tax relief to the cap. But
12 we think in this instance it's not likely to
13 have the intended effect on spending levels,
14 and in the process it will unfairly penalize
15 many of the very households the circuit

16 breaker is designed to help. Our sense is
17 that where supermajorities are able and
18 willing to pay higher taxes and believe an
19 override is needed, they will not generally
20 be deterred by the inability of some of their
21 residents to get a circuit breaker.

22 The Governor's bill is estimated to
23 help about half the state's households, but
24 that percentage will vary widely from one

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1 community to another. Where that percentage
2 is small, as suggested above, the more likely
3 the override.

4 As for communities where more
5 residents qualify for the circuit breaker,
6 please bear in mind that each of them, each
7 beneficiary will be paying their full
8 property tax up-front, and that even after
9 deducting the subsequent income tax credit,
10 virtually all of them will have still paid
11 more in property tax as a percentage of their
12 income than residents who do not qualify for
13 the circuit breaker. They are not likely to
14 lose their interest in keeping local spending
15 under control and adhering to the cap.

16 For the above reasons, we earnestly
17 hope the circuit breaker benefit can be
18 decoupled from the cap.

19 Thank you very much. I'm happy to
20 respond to any questions.

21 CHAIRMAN FARRELL: Questions?

22 SENATOR KRUEGER: Thank you.

23 MR. WHITELEY: Thank you.

24 CHAIRMAN FARRELL: Thank you.

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1 Darla Romfo, president and chief
2 operating officer, Children's Scholarship
3 Fund, InvestinEd Coalition.

4 Is there a replacement here?

5 MS. ROMFO: I'm here.

6 CHAIRMAN FARRELL: You might use your
7 ten minutes up getting in here.

8 MS. ROMFO: Thank you very much.
9 Thank you, Chairman DeFrancisco and
10 Chairman Farrell, for allowing us to come
11 here this morning.

12 My name is Darla Romfo, and I'm the
13 president and chief operating officer of the
14 Children's Scholarship Fund. It's the
15 largest K-8 scholarship program in New York
16 State. We provide scholarships to about
17 8,300 kids in the New York City area.

18 CSF is an independent, nonprofit,
19 non-sectarian organization. We're not
20 affiliated with any religious denomination.

21 With me today is a representative of
22 the thousands of children and families that
23 CSF has helped directly through our
24 scholarship program. This is Jorvelyn

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1 Tejada. She's a former scholarship
2 recipient. She lives in Washington Heights.

3 She actually lives in Chairman Farrell's
4 district. She is now a senior and an honor
5 student at Notre Dame High School in
6 Manhattan, and she's in the midst of applying
7 to college.

8 CSF is also part of the InvestinED
9 Coalition, which has more than 100
10 organizations that represent community-based,
11 nonprofit education providers, organized
12 labor, business groups, high-needs
13 communities, and religious entities.

14 So I have several representatives of
15 these organizations with me here today. I'd
16 like to introduce them.

17 At the end is Raki Barlow, he's the
18 director of Arts and education for Walk of
19 Art Kids in Brooklyn, which brings
20 arts-enrichment education to children in
21 public schools.

22 Next to him is Jason Pagan. He's the
23 director of legislative affairs for Queens
24 Council 23047 of the League of United Latin

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1 American Citizens.

2 Next to him is Antwan Allen. He's the
3 principal of St. Mark the Evangelist School
4 in upper Manhattan. It's a school serving a
5 low-income population with more than half its
6 students on scholarship, many of them
7 supported by the Children's Scholarship Fund.
8 I should note that the average income of our

9 families is around \$31,000, so we don't help
10 wealthy people.

11 And to my left, again, is Jorvelyn,
12 and to my further left is Julia Pignataro,
13 who is the president of the Federation of
14 Catholic Teachers, Local 153.

15 You have my written testimony in front
16 of you which explains more fully exactly how
17 the Children's Scholarship Fund works, who we
18 serve, and any of us here are happy to answer
19 any questions.

20 I just want to say that I am here
21 today because I have seen what the
22 scholarship means to the families we serve
23 over the past 16 years. And I know that
24 everyone sitting at this table knows that

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1 whether it be through scholarships or through
2 the other efforts that would be uplifted
3 through this legislation, that the most
4 important thing that we're talking about is
5 the kids.

6 There are no do-overs, and educational
7 opportunities missed mean life opportunities
8 that never happen.

9 So thank you for letting us be here
10 today, and thank you so much for considering
11 this legislation. We're very grateful.

12 Any questions for me or anyone else
13 here, we'd be happy to entertain them.

14 CHAIRMAN FARRELL: Thank you.

15 As a young lady, you were from
16 Washi ngton Hei ghts?

17 MS. TEJADA: Yes.

18 CHAIRMAN FARRELL: Where?

19 MS. TEJADA: 158th Street.

20 CHAIRMAN FARRELL: 158th?

21 MS. TEJADA: Yes.

22 CHAIRMAN FARRELL: Down the block from
23 where I live.

24 MS. TEJADA: Oh, wow.

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1 CHAIRMAN FARRELL: I live in the red
2 bui lding on Ri versi de Drive.

3 MS. TEJADA: Oh, okay.

4 CHAIRMAN FARRELL: What's your number?
5 500 or 600?

6 MS. TEJADA: 499.

7 CHAIRMAN FARRELL: Oh, 499. That's
8 between Edgecomb and St. Ni chol as --
9 St. Ni chol as and Amsterdam.

10 MS. TEJADA: Yeah. Correct.

11 CHAIRMAN FARRELL: Yeah. When I was a
12 ki d, I l i ved on 940. Ri ght around the --

13 MS. TEJADA: Oh, wow.

14 CHAIRMAN DeFRANCISCO: What he's
15 sayi ng --

16 CHAIRMAN FARRELL: So wel come.

17 CHAIRMAN DeFRANCISCO: What he's
18 sayi ng is that he supports your group
19 100 percent.

20 (Laughter.)

21 CHAIRMAN FARRELL: Any questions?
22 Thank you all very much.
23 MS. TEJADA: Thank you.
24 MS. ROMFO: Thank you.

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1 CHAIRMAN DeFRANCISCO: Okay. This is
2 moving very quickly. I can't believe it. We
3 even have a break in between.

4 CHAIRMAN FARRELL: Jake Adler,
5 New York State Policy Director, Orthodox
6 United.

7 Nobody's responding. Are you sure
8 we've got the wrong person missing?

9 Jared Arader, Day School Advocacy
10 Manager, United Jewish Appeal Federation. Is
11 he here?

12 (No response.)

13 CHAIRMAN DeFRANCISCO: Okay.

14 SENATOR KRUEGER: You know what, the
15 trains weren't coming in from New York City.
16 They're all from New York City.

17 (Discussion off the record.)

18 CHAIRMAN FARRELL: Thank you all very
19 much. We're finished until 1 o'clock.

20 (Whereupon, the budget hearing
21 concluded at 11:44 a.m.)

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