

1 BEFORE THE NEW YORK STATE SENATE MAJORITY COALITION

2 PUBLIC FORUM/TOWN HALL

3 MANUFACTURING REGULATORY REFORM - TO LEARN FROM
4 BUSINESSES AND INDUSTRY EXPERTS WHICH REGULATIONS
5 ARE THE LEAST USEFUL, LEAST COST-EFFECTIVE; AND,
6 THEREFORE, SHOULD BE ELIMINATED

7 233 East Washington Street
8 Common Council Chambers, 3rd Floor
9 Syracuse, New York 13202

10 September 20, 2013
11 10:00 a.m. to 12:00 p.m.

12 SPONSORS PRESIDING:

13 Senator Patrick M. Gallivan
14 Deputy Conference Leader for Economic Development

15 Senator Kathleen A. Marchione
16 Chair of the Administrative Regulations Review
Commission

17 Senator David J. Valesky
18 Chair of the Senate Committee on Commerce,
Economic Development, and Small Business

19
20 CO-SPONSOR PRESIDING:

21 Senator John A. DeFrancisco
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23
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4	Unshackle Upstate, Rochester, New York		
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11	and Government Relations		
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1 SENATOR VALESKY: All right, we're going to
2 get started. We're just a few minutes late.

3 We have a number of speakers who will be
4 participating today, so we'll get going.

5 I'm Dave Valesky, the Chair of the
6 Senate Standing Committee on Small Business,
7 Commerce, and Economic Development, and one of the
8 co-chairs of a Senate Majority Coalition series of
9 public hearings that we're holding across the state,
10 to look at the other issue, the other side, of the
11 business-climate situation in New York State.

12 My colleague Senator DeFrancisco is joining
13 us as well, who chairs the Finance Committee.

14 He's focusing his efforts this fall primarily
15 on the tax structure, and we are looking at
16 regulatory reform.

17 And, this is the third of those 10 hearings.

18 We're looking to hear testimony we'll be
19 receiving today, as the third of those hearings, as
20 to what regulations are making it difficult for
21 businesses to be successful: to retain jobs, to add
22 new jobs, and to grow their business, which, in
23 turn, grows the New York State economy.

24 Co-chairing the hearings with me is,
25 Senator Pat Gallivan, from Western New York. He

1 heads up the economic-development efforts for the
2 Senate Republican Conference;

3 And, Senator Kathy Marchione, from Saratoga.
4 She is the Chair of the Administrative Regulations
5 Review Commission.

6 So, delighted to welcome them both to
7 Syracuse.

8 And before we begin, I would just ask my
9 colleagues if they have any opening comments that
10 they would like to make.

11 Pat?

12 SENATOR GALLIVAN: Thanks, Senator.

13 Good morning, everybody.

14 I appreciate the fact that you took time out
15 of your day to be here, or to travel here.

16 A recent U.S. Chamber of Commerce report
17 ranked New York State 50th out of 50 states
18 regarding its business climate and it's business
19 environment.

20 And it's no secret why there's problems.

21 Senator Valesky touched on both of them:
22 we're among the highest taxed and highest regulated
23 in the state.

24 So, we are conducting that series of
25 hearings, focusing, chaired by Senator DeFrancisco,

1 on tax reform, and, then, the panel before you,
2 conducting the series across the state to deal with
3 the rest of it, that so-called "death by a thousand
4 cuts," in hope that we can do this in an
5 industry-specific manner, where you can help us
6 drill down beyond those big things, beyond
7 worker's-comp issues, beyond Scaffold Law, beyond
8 Wage Theft Prevention Act; get down to things that
9 stand in the way or prove to be impediments to your
10 businesses, your industry, on a daily basis.

11 And our goal, of course, is to put out,
12 publish a report sometime, probably late in
13 November.

14 It would be part of our set -- our -- a part
15 of our priority and our agenda as we move into the
16 next legislative session, in hopes, that at least with
17 the regulatory reform, that all these little things,
18 that we can look at the outdated regulations -- the
19 ones that make no sense, the ones that are
20 duplicative, the ones where the costs greatly
21 exceeds the benefit -- in hope that we can take all
22 of these, and they can add up to have some sort of
23 meaningful change.

24 To give you an idea, there's, I think the
25 number is 83 volumes of rules and regulations in the

1 state, over 140,000 pages.

2 So, we certainly think that there's room for
3 improvement.

4 I'm sure you do, or else you wouldn't be
5 here.

6 And, I'm anxious to hear your testimony, and
7 hopeful that you can help us in this initiative,
8 which I think ultimately, of course, helps the
9 manufacturing industry and New York's economy.

10 So, thank you.

11 SENATOR VALESKY: Thank you,
12 Senator Gallivan.

13 Senator Marchione?

14 SENATOR MARCHIONE: Thank you.

15 It's an honor for me to be here with you this
16 morning, and I look forward to hearing your
17 testimony on regulations relative to manufacturing.

18 As the Chairman of the Administrative
19 Regulations Review Commission, I've stated a number
20 of times that the red tape, our regulations, travel
21 about 12 miles when you lay the volumes end to end.

22 Senator Gallivan was talking about, for me,
23 that's from Albany to almost my home in Half Moon.

24 We really do need to do something about that.

25 It is what prevents our businesses from being

1 able to expand and, perhaps, land here in New York.

2 And it's very serious to us; thus, the reason
3 for this hearing.

4 Also, I'll let you know that the
5 Administrative Regulatory Review Commission, beyond
6 these hearings, has been looking itself at
7 regulations, to see what's there, and almost
8 spending our full time this summer working to do
9 that.

10 But, we need to hear from you.

11 And, you know, our only goal here is to find
12 solutions, real solutions.

13 And we believe that your testimony and what
14 you bring before us today is what will help us do
15 that.

16 So thank you so much for being here.

17 SENATOR DeFRANCISCO: I don't have really
18 much to add.

19 I mean, you wouldn't be here if you weren't
20 concerned about regulations, overregulations, in the
21 state of New York, and sometimes non-cooperation by
22 some of the agencies that you're dealing with.

23 And, we get a lot of calls about that issue.

24 It's a big government.

25 The big government, there's a lot of layers,

1 and a lot of layers sometimes don't speak to each
2 other.

3 But, what we want to be able to do, is be in
4 a position to make serious recommendations, real
5 recommendations, that actually get implemented,
6 because everyone, from the Governor on down, wants
7 to make this a better business climate in the state
8 of New York.

9 So from my perspective, I appreciate your
10 being here to give your perspective of what needs to
11 be done in the state of New York, and the more
12 specific, the better.

13 Thank you.

14 SENATOR VALESKY: Thank you.

15 We'll start today with Brian Sampson, who is
16 the executive director of Unshackle Upstate.

17 Good morning.

18 BRIAN SAMPSON: Good morning.

19 Thanks for having us here.

20 Senator Valesky, Gallivan,
21 Senator DeFrancisco, Senator Marchione, we thank you
22 for the opportunity to sit before you today and
23 present our testimony.

24 I want to thank you and your Coalition for
25 taking on this important issue of regulatory reform.

1 It is certainly one that we hear about often
2 as we travel about the 48 counties and the
3 40,000 square miles of Upstate New York.

4 In my testimony you have more detailed
5 regulations of some of the things that we're looking
6 at, so I won't go into great depth here today.

7 And I know that my good friends Deb Warner
8 and Karyn Burns will cover many of those.

9 So -- but, again, my name is Brian Sampson.
10 I'm the executive director of
11 Unshackle Upstate.

12 We're a non-partisan pro-taxpayer,
13 pro-economic growth, education, and advocacy
14 organization dedicated to the revitalization of
15 Upstate New York.

16 As an organization, Unshackled's purpose is
17 to push for policies in Albany that make upstate a
18 better place to do business.

19 I recently had the opportunity to present our
20 New Era Plan for upstate to two Senate Committees.

21 Senator DeFrancisco and Senator Valesky, you
22 were there last week.

23 That plan, which I won't detail here, is made
24 up of five proposals to provide broad-based tax
25 relief and stimulate job growth across upstate.

1 Senator Marchione, I think you were there
2 last week as well, so, thank you.

3 But equally as important to the success of
4 the upstate economy is the topic of today's hearing:
5 reducing State-imposed mandates on business.

6 Over the past few years, a new phrase has
7 frequently been heard emanating from the halls of
8 the Capitol in New York.

9 That phrase, that "New York is open for
10 business."

11 While progress has been made, it is far too
12 early to make such bold and provocative statements.

13 The reputation of New York is often seen as a
14 place where businesses tend to experience --
15 Senator Gallivan, to your point -- a death by a
16 thousand cuts; those cuts being taxes.

17 Unfortunately it's a reputation that we have
18 earned, and we deserve.

19 Further, New York is widely regarded
20 throughout the nation as one of the states with the
21 highest levels of regulation.

22 You recall that earlier this year,
23 Texas Governor Rick Perry launched an advertising
24 campaign, focusing on our state's anti-business
25 regulations as a means to lure New York businesses

1 to his state of Texas.

2 I believe that it even included an iconic
3 graphic of "New York Loves Regulations."

4 Today I hope to provide you with a
5 perspective of the upstate business community on the
6 issue, and with some suggestions that will help you
7 change this, and to improve the state's
8 competitiveness and the perception that others have
9 of us.

10 I truly hope that this is a first step
11 towards reducing New York's ever-thickening snarl of
12 government regulations.

13 While manufacturing-specific regulations are
14 devastating, so, too, are the general business taxes
15 and regulations.

16 Consider the following:

17 On energy: Things like the systems-benefit
18 charge, as well as the Regional Greenhouse Gas
19 Initiative, make our energy the most costly in the
20 country.

21 Health insurance: New York has more than
22 4.2 billion, that's billion with a "B," dollars in
23 taxes on our health insurance.

24 Tort reform: New York is often considered a
25 judicial hellhole due to our court systems and laws

1 that defy logic.

2 The poster child for that is the
3 Scaffold Law, Labor Law 240/241, that, thankfully,
4 you Senator Gallivan sponsored that reform bill.

5 Those are just indications of how New York
6 isn't serious about helping our business community.

7 All of these things hurt manufacturing,
8 especially small manufacturing, the lifeblood of
9 many communities across upstate.

10 These are the companies that can't afford to
11 stay, but they also can't afford to leave.

12 In contrast, many large manufacturers located
13 in upstate have simply shifted work to other
14 facilities or just abandoned New York altogether.

15 Here in Syracuse you can point to the absence
16 of the Carrier Corporation.

17 The only real presence it has in this
18 community today is the dome where the beloved Orange
19 compete.

20 But let me highlight what I consider to be,
21 as we call it, the "grand slam" of unnecessary
22 regulation, the annual notification provision
23 mandated in the 2010 Wage Theft Prevention Act.

24 Senator DeFrancisco, thankfully, you support
25 and endorsed the bill that will repeal that

1 provision.

2 In 2010, the Legislature decided there were a
3 number of problems relating to the nonpayment of
4 workers that needed to be addressed, including
5 nonpayment of overtime, improper deduction from
6 wages, and the payment of below minimum wage.

7 This was an effort motivated by good
8 intentions, certainly, but that well-intentioned
9 effort was missing one component: common sense.

10 Under New York's Wage Theft Protection Act,
11 private-sector employers must provide, each year, a
12 written pay notice to all of their employees.

13 The employer must also obtain a written
14 acknowledgment of the receipt of this notice, that
15 must be obtained in the employees' files for
16 six years.

17 Unshackled Upstate did not oppose efforts to
18 protect employees who were being cheated by bad
19 employers.

20 In fact, we will never defend bad employers.

21 We took no issue with the increased penalties
22 for intentional and repeated violations of the law,
23 or against more diligent enforcement of the law.

24 We felt that this was indeed a problem, and
25 that there were fair and appropriate solutions.

1 But what was not an appropriate response was
2 the imposition of a new employee notification and
3 recordkeeping mandate on every private employer in
4 the state.

5 The aspect of the law was simply an overkill.

6 Besides being a compliance nightmare, the law
7 treats every employer as if they were underpaying
8 their employees. They are guilty before even having
9 the chance to presume their innocence.

10 Since the vast majority of employers follow
11 the law and pay their employees the way they owe,
12 the law needs to go.

13 For the record, I note that the Senate has
14 passed a bill that would eliminate the annual
15 notification requirement.

16 I commend you for that, and urge you to
17 continue to advance the bill.

18 We continue to pressure your Assembly
19 colleagues on the issue, and we hope that they will
20 do it in this next session.

21 In terms of changing the regulatory
22 environment of New York State, most people
23 understand that we did not get here overnight, and
24 we will not be able to solve this problem overnight
25 either.

1 Unshackle Upstate has in the past solicited
2 input from upstate businesses regarding what
3 regulatory reforms should be undertaken.

4 What at first seemed to us to be a simple
5 request turned into something very different.

6 What we heard was, that it was a complex
7 mosaic of rules that the State has in place,
8 combined with little thought to providing assistance
9 to those who have to comply to them.

10 That has created such a challenging
11 regulatory environment.

12 In other words, it's not just the forest,
13 it's the trees.

14 What New York State needs is a serious and
15 sustained effort to change the way the State deals
16 with business.

17 My members recognize the need for the State
18 to have health, environmental, and consumer
19 protection regulations in place, but we also believe
20 that those regulations must be fair and predictable.

21 Critically, regulations must be aligned with
22 understandable and clearly articulated public-policy
23 goals, they must be achieving the goals for which
24 they were adopted, and they should do so in a manner
25 that is not unduly burdensome.

1 To this end, we recommend two overarching
2 strategies as you move forward.

3 First, we urge the Senate to undertake an
4 agency-by agency review of regulations to identify
5 those that are truly unduly burdensome, that have
6 outlived their usefulness, or more importantly, ones
7 that conflict or are duplicative of federal
8 requirements.

9 Continuing to shine a light on the
10 challenging regulatory environment is crucial.

11 Second, and probably most importantly, we
12 urge you to stop enacting laws that result in the
13 imposition of new mandates on new businesses until
14 the State has taken steps to improve the regulatory
15 environment.

16 There's an old saying: When you find yourself
17 in a hole and want to get out, the first thing you
18 need to do is stop digging.

19 So, please, stop digging.

20 I understand that this can be difficult for a
21 legislative body, especially in an election year,
22 but your first priority should be to do no harm.

23 I'm going to conclude my testimony with a
24 plea for SEQR reform.

25 We have no objection to SEQR itself.

1 It makes absolute sense to consider the
2 environmental impacts of a particular project, to
3 see if adverse impacts can be mitigated, or, if
4 there are alternatives to a particular proposal that
5 will impose and improve a project, and make the
6 environment better.

7 That's just common sense.

8 But as presently structured, SEQR is too
9 often a project-killer in New York State.

10 In fact, over the course of the last
11 two years, many of you and the Governor have put
12 hundreds of millions, if not billions of dollars out
13 on the street through the regional councils.

14 Each and every one of those projects that
15 requires building, bricks and mortar, they're all
16 delayed due, in large part, to the SEQR.

17 What troubles many businesses most, and in
18 some cases even troubles them entirely, is
19 uncertainty.

20 I will offer, that the State Department of
21 Environmental Conservation's review of natural-gas
22 development in the Marcellus Shale region is also an
23 example of an environmental review process run
24 amuck.

25 There does not appear to be any timetable for

1 the conclusion of DEC's environmental-review
2 process, the one that began more than five years ago
3 in July 2008.

4 It was just over one year ago today that
5 DEC Commissioner Martens asked State Health
6 Commissioner Nirav Shaw to assess the DEC's
7 health-impact analysis.

8 That has been one year, and the oil and gas
9 industry has heard nothing.

10 More importantly, it is the landowners in the
11 Marcellus area that continue to hear nothing, and
12 continue to have uncertainty.

13 The silence that we hear from the DEC is
14 deafening.

15 Our view is, that natural gas can and should
16 be developed in the Marcellus Shale region, and that
17 the State should finalize its comprehensive review
18 of the potential environmental impact of natural-gas
19 development, and put into place regulations that
20 strike an appropriate balance between economic
21 development and environmental protection as soon as
22 possible.

23 This is exactly the type of "only in
24 New York" situation that we must avoid in the future
25 if we want New York to shed its anti-business

1 reputation.

2 In closing, the focus in Albany needs to
3 shift.

4 We need to hit the restart button on our tax
5 policies, as well as our regulatory structure.

6 We must reduce regulations so that our
7 entrepreneurs may thrive.

8 We must lower taxes that impede our growth,
9 and we must do it today, not at some random point in
10 the future.

11 We don't have time to wait anymore.

12 Again, thank you for the opportunity to speak
13 with you today on this important issue, and I'm
14 happy to answer any questions you may have.

15 SENATOR MARCHIONE: You mentioned the
16 Regional Greenhouse Gas Emission Initiative as being
17 problematic.

18 Can you give me some additional information
19 on that?

20 BRIAN SAMPSON: Sure.

21 So there's a charge on everybody's energy
22 bill called "RGGI," and that's to go to fund some
23 alternative development in the energy industry.

24 While we don't have an issue with developing
25 solar and developing wind, the RGGI, combined with

1 the systems-benefit charge, combined with 18-A,
2 makes energy so expensive here in New York State
3 that, from a manufacturing standpoint, when things
4 can come down to pennies on a dollar, that extra
5 penny or two that somebody may pay through a RGGI or
6 a systems-benefit charge makes their product too
7 expensive and they lose the bid.

8 SENATOR MARCHIONE: Thank you.

9 SENATOR DeFRANCISCO: I'm glad you mentioned
10 the Wage Theft Prevention Act as the poster child of
11 ridiculousness in government.

12 Just to remind you: In 2010, the entire
13 government was controlled by downstate.

14 BRIAN SAMPSON: Yes, it was.

15 SENATOR DeFRANCISCO: And, to require people
16 to give, especially when they give checks with check
17 stubs, talking about exactly what's being taken out,
18 to give another annual notification of what they
19 earn so that they know what they're earning, is the
20 most asinine thing I've seen in government.

21 Now, what I don't understand, for the life of
22 me, there's businesses downstate, I think?

23 BRIAN SAMPSON: Sure, many.

24 SENATOR DeFRANCISCO: And I know
25 Upstate New York, and Unshackle Upstate, and all the

1 manufacturers I hear from on a daily basis, tell me
2 what I just said, and what you said, about this
3 bill.

4 We've passed a repealer two years in a row.

5 Is there any voice downstate of the business
6 community saying: This is ridiculous. It's costing
7 us hundreds of thousands of dollars to do nothing?

8 BRIAN SAMPSON: We actually had an agreement
9 from the Assembly this past session that they were
10 going to advance your bill, and that it would go
11 through the House and be passed.

12 Unfortunately, at the last minute, many of
13 the public-employee unions down in the city wanted
14 to attach a whistleblower provision to the bill.

15 That whistleblower, to us, changed the
16 negotiations of the bill; and, ultimately, it wasn't
17 advanced in the House.

18 So, there is a voice in the city that is
19 speaking on that issue.

20 SENATOR DeFRANCISCO: Well, the next part of
21 that question then is: What about accountability?

22 Do these business people go after some of
23 these people that do not -- are in the government,
24 that do foolish things, and cost them a lot of money
25 for no reason?

1 Are there any organized efforts to run a
2 primary against somebody who's maybe holding up a
3 bill?

4 Or -- I mean, it seems to me, the only
5 solution is political.

6 And if something is so foolish, it has to get
7 done, and it's stopped by one group of people,
8 there's got to be some political consequences.

9 I'm not suggesting -- you, obviously, are
10 very astute at what you're doing. You get your
11 message out very quickly.

12 But, somehow, the same effort's got to be
13 made downstate, because that should not be allowed
14 without accountability.

15 BRIAN SAMPSON: You know, we couldn't agree
16 with you more, Senator.

17 And, thankfully, I only get to deal with the
18 things north and west of the Tappan Zee. And that's
19 difficult enough.

20 I think that there are --

21 SENATOR DeFRANCISCO: Yeah, but we're up here
22 and we get criticized from down --

23 BRIAN SAMPSON: Well, you know, this -- I'll
24 tell you what, this is one of those classic
25 examples, though, of upstate bearing the burden of a

1 downstate marketplace.

2 Now, if there are concerns and issues with
3 the bodegas and the construction industry in
4 New York City, then maybe this law should apply just
5 to the five boroughs.

6 I have no problem with that.

7 Here in Upstate New York, we have good
8 employers.

9 We have great manufacturers. We have
10 wonderful farms.

11 They're not skirting the laws.

12 And if they are, we're not going to defend
13 them, and there are laws in place to prosecute them.

14 Couldn't agree with you more.

15 SENATOR VALESKY: Brian, thanks for your
16 testimony.

17 Just a couple of quick points.

18 BRIAN SAMPSON: Sure.

19 SENATOR VALESKY: And I appreciate the
20 specificity, even though you didn't get into in your
21 oral testimony.

22 BRIAN SAMPSON: We would be here all day if
23 you wanted to do that.

24 SENATOR VALESKY: Yes, if we went through it
25 point by point.

1 So, I do appreciate your specificity.

2 One: As I'm sure you remember, the Senate,
3 in the last few days of a recently concluded
4 session, approved a series of, I think it was
5 14 separate pieces of legislation regarding
6 regulatory reform.

7 I think a couple of them you have in your
8 recommendations for next year.

9 One of them that comes to mind, and I think
10 it was sponsored by Senator Griffo, that would
11 establish a Berger-style commission to look at the
12 regulatory climate.

13 I would just certainly suggest, that as you
14 prepare your 2014 legislative agenda for Unshackle,
15 that you review those bills that we've taken up
16 already --

17 BRIAN SAMPSON: Absolutely.

18 SENATOR VALESKY: -- and, you know, the ones
19 that you feel would be of benefit, from your
20 organization's perspective, certainly would be
21 helpful to us --

22 BRIAN SAMPSON: Of course.

23 SENATOR VALESKY: -- to continue to advance
24 them in next year's session.

25 The one thing I'm just going to pick out

1 among your recommendations, has to do with
2 worker's compensation.

3 BRIAN SAMPSON: Yes.

4 SENATOR VALESKY: Your headline is:
5 "Adopting the AMA and ACOEM Guidelines."

6 And you talk about the worker's-comp reforms
7 that we passed in 2007 --

8 BRIAN SAMPSON: Sure.

9 SENATOR VALESKY: -- and you indicated that
10 they haven't particularly worked.

11 We did do some worker's-comp reform in this
12 year's budget.

13 And I don't know whether you've had time to,
14 or whether businesses have had time to, analyze the
15 impact of what we did earlier this year.

16 Do you have any --

17 BRIAN SAMPSON: Yeah, we actually worked with
18 the Senate and the Governor's Office on those
19 provisions, and they were more long-term changes to
20 the worker's-comp system.

21 In essence what you have, is the reforms that
22 were done in 2007 is a very quick, forced reduction
23 in premiums on worker's comp, and then you
24 established the equivalent of The AMA Guidelines
25 (The American Medical Association Guidelines) for

1 the state of New York.

2 By the times that those rules and regulations
3 were promulgated and put into place, we had already
4 suffered 4 1/2 years of increased growth in
5 worker's-comp premiums, paid on a weekly basis.

6 So in order to revert -- the example is, the
7 minute you drive a car and you drive it off the lot,
8 the rumor is, it's worth about half of what you just
9 paid for it.

10 You passed a law in 2007, changing
11 worker's comp, but by the time you put the rules in
12 place, you were already 4 1/2 years behind the rest
13 of the country that is using AMA Guidelines.

14 Our point is, 30 -- I believe 38 states
15 utilize the AMA Guidelines.

16 They're very -- they're created by doctors.

17 They're designed to ensure that there is, as
18 we like to say, predictability, there's cost
19 ensurement [sic], but there's also good treatment
20 for the injured worker.

21 So what we'd like the State to do is adopt
22 those guidelines, and then to follow them up with
23 ACOEM.

24 ACOEM is a list of treatment protocols.

25 So it's, basically, you know, if you try this

1 treatment and it doesn't work, then you go to B.

2 And if B doesn't work, you go to C.

3 But there's a progression there.

4 A predictable progression.

5 If the State were to adopt those, what you
6 would see is a tremendous decrease in the pressure
7 on the premiums under Worker's Compensation.

8 When we got there, obviously, then, that's a
9 relief to the business community, yet you've still
10 ensured that there is proper treatment for the
11 injured worker.

12 We want to see them get back to work.

13 We don't want to see them sit out on worker's
14 comp, even for the maximum of 500 weeks.

15 We want them back to work.

16 ACOEM and AMA guidelines would make
17 New York State more competitive. Again, would bring
18 us to a national standard that 38 other states are
19 using.

20 SENATOR VALESKY: Would adoption of those
21 guidelines require legislation from us, or could
22 that be done administratively?

23 BRIAN SAMPSON: We're checking on both.

24 My sense is, because the 2007 reforms were
25 done legislatively, this would probably have to be

1 done as well.

2 But, we are talking to the
3 Worker's Comp Board about adopting those
4 regulations.

5 SENATOR VALESKY: Anything?

6 SENATOR GALLIVAN: No, I'm good.

7 SENATOR VALESKY: Brian, thanks very much.

8 BRIAN SAMPSON: Thanks.

9 Appreciate your time.

10 Next we'll hear from Nathan Andrews, who is
11 the president of Morse Manufacturing in
12 East Syracuse.

13 Welcome back.

14 We heard from Nathan at Senator DeFrancisco's
15 hearing here in Syracuse a couple of weeks ago.

16 NATHAN ANDREWS: Yes, indeed.

17 SENATOR VALESKY: Good to see you again.

18 NATHAN ANDREWS: Thank you very much.

19 Thank you.

20 Again, Nate Andrews, Morse Manufacturing
21 President.

22 Thank you for this opportunity, and thank you
23 for addressing the need for regulatory reform in
24 New York State.

25 Morse Manufacturing was founded in 1923, and

1 making it a 90-year-old company.

2 I'm currently third generation. We're a
3 family business.

4 We are a manufacturer of drum- and
5 barrel-handling equipment.

6 Think of a steel drum.

7 We don't make the drums, we make the
8 equipment that properly lifts, moves, and handles
9 it.

10 Two weeks ago, I was here testifying before--
11 regarding tax reform.

12 At the time, I spoke a little bit about the
13 type of products that we make, in light of the
14 uniqueness and the kind of engineering know-how that
15 is required behind it, in light of the ongoing
16 denial that we have had of the Qualified Emerging
17 Technology Credit that is still ongoing.

18 Nothing's changed in the last two weeks, by
19 the way.

20 But, today, I would like to share a picture
21 of Morse Manufacturing, in light of regulatory
22 reform, and I'd like to focus on the employees that
23 we have.

24 We have, roughly, 40 employees, and our
25 average employee has been with us over 15 years.

1 I have been with the company 10 1/2 years,
2 and so I'm still, relatively, a new face in the
3 organization, even though, you know, a lot of them
4 knew me as a kid, growing up.

5 We offer full benefits: health, dental, life
6 insurance.

7 Last year's profit sharing was over 7 percent
8 contribution to 401(k) plans.

9 And we offer all sorts of incidentals that a
10 lot of bigger companies can't do. We have the
11 flexibility.

12 New York State Fair tickets, or, we get
13 season tickets to the Syracuse Chiefs, and give them
14 away to employees.

15 I got tickets to the SU football game this
16 weekend, that we're giving away.

17 We do a full week's pay at Christmas.

18 SENATOR VALESKY: Do you have trouble giving
19 them away?

20 [Laughter.]

21 NATHAN ANDREWS: The Chiefs tickets we did,
22 but...

23 We do -- in the winter, we have a fruit
24 basket, where the employees can come help
25 themselves, you know, to keep themselves healthy

1 throughout the winter. You know, avoid downtime.

2 We do lunch-and-learns for employees. Bring
3 people in to talk about different nonprofits.

4 It's a family business, in the sense that
5 it's owned by my family, but, it's a family in the
6 sense that our employees are our family.

7 We believe that if we put our employees
8 first, they're, in turn, going to put our customers
9 first.

10 It establishes a sense of trust throughout
11 the entire organization, and that's what keeps us in
12 business for 90-plus years.

13 And, hopefully, for my grandkids to stay
14 within the business.

15 It's within that sense of trust -- and I hate
16 to discuss what's already been mentioned -- but the
17 Wage Theft Prevention Act, twice a year I personally
18 go around and have people sign these papers,
19 declaring all the same information that's on their
20 paycheck.

21 And it's the same conversation every time
22 I walk out back:

23 "Well, what is this?"

24 "Well, it's to show you that I'm not stealing
25 from you."

1 "Well, what's on it?"

2 "Well, it's the same information that's on
3 your paycheck."

4 "Well, why do I have to sign it?"

5 "Well, New York State makes us do that."

6 It's a nonsensical requirement.

7 It invalidates the kind of trust that we're
8 trying to build with our employees.

9 And, it's something -- I won't belabor the
10 point.

11 I'd like to talk about New York State
12 unemployment as well.

13 Morse Manufacturing, as I'm sure you're well
14 aware, is liable for unemployment expenses for
15 employees that we have let go for rightful cause,
16 they've been terminated, who are subsequently hired
17 by another organization, and then let go, in the
18 amounts of thousands of dollars over the course of a
19 year for an employee that was let go for cause.

20 Over the last 10 years that I've been a part
21 of the organization, we have never once let go a
22 single employee that was not for cause, and,
23 therefore, was not eligible for unemployment.

24 Yet, they got hired somewhere else, were laid
25 off, we're liable for unemployment.

1 Back in '08, '09, back when the economy
2 tanked, our sales plummeted.

3 As a family business, we were able to not lay
4 employees off.

5 We kept people busy.

6 We had employees on our roof, painting the
7 roof, just to keep people busy.

8 When the economy turned around, we were able
9 to benefit from it.

10 But, over the course of those 5 years, our
11 unemployment costs have gone up over 83 percent.

12 And that's just not because of the fact that
13 other employees had left and had subsequently been
14 terminated, but I know there's all sorts of other
15 reasons for unemployment expenses going up, but,
16 83 percent over the last 5 years is a big burden for
17 us to bear.

18 We have -- in the past five years, we
19 purchased a paint booth.

20 We have a painting process.

21 We have a water-based paint, very low
22 volatile content. It doesn't smell very toxic, or
23 anything. And, we use a dip tank. It's a
24 500-gallon large dip tank.

25 You don't want to fall in it because you'll

1 turn blue.

2 Everything we do is blue, and it's called the
3 "Morse blue." That's what our products are.

4 We were running into problems because we're
5 limited by the size of the dip tank for painting our
6 products, and so we wanted to acquire a paint booth.

7 We were having to have everything outsourced.

8 We were buying a simple 10-by-10 paint booth,
9 and we started going through the process with the
10 DEC to get the permitting required to purchase this
11 paint booth.

12 We were spending hundreds of
13 thousands of dollars to outside suppliers to have
14 this painting done on some of our larger equipment.

15 A paint booth was twenty, thirty thousand
16 dollars.

17 It paid for itself in a matter of weeks,
18 literally, but the permitting process took us over a
19 year to go through the DEC.

20 Apparently, New York State -- we gave these
21 MSDS sheets that spell out the contents of the
22 chemicals and the paint, and everything else.

23 And the federal government has guidelines on
24 VOC content (volatile organic compounds).

25 And unbeknownst to us, New York State has its

1 own set of calculations and guidelines for
2 VOC content.

3 And so this application process, we --
4 without the help of the New York State Environmental
5 Facilities Corp., I don't know, we just may have
6 given up.

7 It was -- the application is -- I'm not a
8 stupid person, but it makes you feel really stupid.

9 I can show you a copy of it if you're
10 interested.

11 The last issue I'd like to touch on, and it's
12 been brought up, is the Scaffolding Law.

13 We have absolutely nothing to do with
14 scaffolding in manufacturing drum- and
15 barrel-handling equipment; and, yet, we have to have
16 an entire process set up within our organization to
17 make sure any contractor that comes into our
18 facility is insured and named additional insured
19 through our insurance company.

20 It's a nonsensical rule, whereby, you know,
21 if someone, if they're standing on a footstool, no
22 matter if they were drunk, if they were anything, we
23 are 100 percent liable, according to the best of my
24 understanding.

25 And it's an additional burden that we really

1 don't need to have.

2 Again, I really thank you.

3 To the Senator's point, New York State is
4 regulation "death by a thousand cuts."

5 It's all these little things that burden;
6 take my time, take the time of our employees, and
7 take it away from truly doing what's in the best
8 interest of our employees and our customers.

9 I thank you for the opportunity once again to
10 be here.

11 And, I applaud you all for taking on these
12 tough issues.

13 SENATOR GALLIVAN: I'm just curious, and
14 nothing specific --

15 I appreciate your testimony, and I guess
16 I would put big exclamation points behind it.

17 -- but I'm curious: How many state agencies
18 regulate you, if you know?

19 NATHAN ANDREWS: Well, Department of Labor,
20 Worker's Compensation, DEC.

21 I would guess at least a dozen.

22 SENATOR GALLIVAN: Of all of them, when there
23 are changes, do you get notice from the various
24 state agencies of the changes in the regulations or
25 the laws that affect you?

1 NATHAN ANDREWS: Generally, no.

2 You know, that -- as a small business, that's
3 a huge fear, that there's regulations out there that
4 we want to be in compliance with. We just don't
5 know about them.

6 SENATOR GALLIVAN: Do you have State
7 auditors?

8 I mean, do state auditors show up from time
9 to time?

10 NATHAN ANDREWS: From time to time.

11 SENATOR GALLIVAN: Do they call?
12 Are they, announced? unannounced?

13 NATHAN ANDREWS: Unannounced.

14 SENATOR GALLIVAN: What are the things that
15 they're auditing?

16 NATHAN ANDREWS: Well, New York State Tax was
17 the most recent one that we've been facing.

18 Fortunately, we've been under the radar in
19 the past 10 years, but, I know people that have been
20 audited by the Labor Departments, and some others,
21 that have not had pleasant experiences.

22 SENATOR GALLIVAN: Yeah, okay.

23 Thank you.

24 SENATOR MARCHIONE: Do you have any
25 duplicative regulations between EPA and DEC with

1 your business?

2 NATHAN ANDREWS: Well, as I mentioned, the
3 VOC-content issue that we had --

4 SENATOR MARCHIONE: Is that both?

5 NATHAN ANDREWS: -- the New York State
6 guidelines are completely different.

7 Fortunately, we had some help in going
8 through that process to notify us.

9 At this point, we simply pay an ongoing
10 permit fee to have the paint booth established.

11 SENATOR VALESKY: This Panel was in Watertown
12 yesterday, and our topic yesterday was the
13 agriculture industry, and many of the speakers
14 raised the issue of DEC. In many cases, having
15 regulations that go way beyond the federal
16 EPA standards.

17 So just following up on Senator Marchione's
18 questions: So, the permit for your paint booth,
19 there's a separate -- there's obviously a permit
20 from the Department of Environmental Conservation,
21 but the requirements the State DEC requires for you
22 to obtain that permit go above and beyond what the
23 federal EPA requirements specify?

24 Is that correct?

25 NATHAN ANDREWS: As I best understood the

1 process, correct.

2 The calculations for VOC content were
3 separate from what the MSDS sheets, set forth by the
4 federal guidelines, established.

5 SENATOR VALESKY: Thank you, Nate.

6 Thanks very much for your testimony.

7 SENATOR GALLIVAN: I do have one more
8 question.

9 NATHAN ANDREWS: Sure.

10 SENATOR GALLIVAN: I've been told that
11 there's -- now, if I understand correctly -- for
12 energy, you do not have to pay sales tax for energy
13 used in the manufacturing process?

14 NATHAN ANDREWS: Correct.

15 SENATOR GALLIVAN: Is that accurate?

16 NATHAN ANDREWS: Yes.

17 SENATOR GALLIVAN: However, you do have to
18 pay sales tax for any energy that's not used for
19 manufacturing; for your administrative office --

20 NATHAN ANDREWS: Correct.

21 SENATOR GALLIVAN: -- or things of that
22 nature?

23 NATHAN ANDREWS: Uh-huh.

24 SENATOR GALLIVAN: How do you calculate that?

25 NATHAN ANDREWS: We do it based on

1 square footage of our manufacturing facility
2 compared to our office environment.

3 We have not been questioned on that in the
4 fact of --

5 SENATOR GALLIVAN: That was my next question:
6 You have not been questioned?

7 NATHAN ANDREWS: We have not.

8 SENATOR DeFRANCISCO: Yet.

9 NATHAN ANDREWS: It's not -- yet.

10 For the most part, our sales, as a
11 manufacturer, we sell through a distributor network.

12 Our sales-and-usage tax is extremely low
13 because we don't sell anything direct, so we're not
14 really paying taxes.

15 So, that tax on our energy usage is the only
16 sales-and-use tax that we really have an obligation
17 to pay, so it's not a large amount, comparatively.

18 SENATOR GALLIVAN: All right.

19 Thank you.

20 SENATOR VALESKY: Thanks very much, Nate.

21 NATHAN ANDREWS: Thank you again.

22 SENATOR VALESKY: Next is Karyn Burns,
23 vice president, communications and government
24 relations for The Manufacturers Association &
25 The Manufacturers Alliance of New York State.

1 Good morning, Karyn.

2 KARYN BURNS: Hello, how are you?

3 First of all, obviously, thank you very much
4 for coming together and holding this forum.

5 I think it's terrific it's in Syracuse.

6 Obviously, we have a great manufacturing
7 sector here, robust, growing, but certainly not
8 without their share of challenges.

9 I will spare you the details. I believe most
10 of you are aware of MACNY.

11 Just a brief overview:

12 We've been around for over 100 years. We're
13 celebrating our 100th birthday this year.

14 And, we represent about 55,000 manufacturers.
15 We have 330 manufacturing companies within
16 26 counties.

17 Very proud of what we do.

18 We serve our members, whether it's HR
19 services, or training, advocacy.

20 Essentially, we try to make it easier for
21 them to do what they do best, which is manufacturing
22 products.

23 I've been doing it a long time, hoping to do
24 it for a longer time.

25 But I'm also here wearing a separate hat, and

1 that actually has to do with The Manufacturers
2 Alliance of New York State.

3 This came together in 2006.

4 And, essentially, we came together with some
5 other regional organizations also representing the
6 manufacturing sector throughout the state.

7 That's to include the Buffalo Niagara
8 Manufacturing Alliance; the Rochester Tooling-- I'm
9 sorry, they just changed their name-- Technology and
10 Manufacturing Association; the Council of Industry
11 of Southeastern New York; the Long Island Forum for
12 Technology; Manufacturers Association of the
13 Southern Tier; Finger Lakes Advanced Manufacturing
14 Group.

15 I apologize-- oh, and the Chief Executive
16 Network in the Albany region.

17 It's a great representation, primarily of
18 upstate manufacturers, but we all came together,
19 because we realized that together, collectively, we
20 were going to get a lot more done on the statewide
21 level.

22 We tend to advocate on sector-specific issues
23 rather than regional.

24 So that's also what I'm here representing
25 today.

1 What I want to talk to you about-- and feel
2 free to read through my testimony -- but what we
3 ended up doing, we've actually, this summer, we've
4 been receiving a lot of inquiries, not only from the
5 Senate, but from the Assembly as well, and from the
6 Administration.

7 And it sounds like everyone is looking for
8 some regulatory reform to make changes on.

9 And that, to us, is very positive.

10 Obviously, we want everyone to work together.

11 Businesses are happy to work with you.

12 So I'm here speaking on behalf of those
13 businesses.

14 And we took the initiative, and we actually
15 ended up surveying our membership a couple weeks
16 ago.

17 And I apologize, we're still in the process
18 of finalizing that information and quantifying those
19 results.

20 But some of those results that came through
21 allowed me to write my testimony, and a couple
22 things I want to talk about specifically today.

23 And some of the --

24 SENATOR VALESKY: Karyn, just before do you
25 that --

1 KARYN BURNS: Yes?

2 SENATOR VALESKY: -- when you do finish that
3 process, if you could share that with us?

4 KARYN BURNS: Absolutely.

5 Absolutely, yes.

6 We were planning on doing that under our
7 research institute, so we'll be happy to send you
8 those results once they come in.

9 But what we've found, so far, is that there's
10 a pattern; that there's three areas of regulation
11 that we'd like to discuss today, and they're in the
12 areas of:

13 Economic regulation, which has to do with
14 prices and wages.

15 And I'd like to discuss some specific
16 examples that were given to us.

17 One had to do with the unemployment-insurance
18 issue that happened a few years ago within the
19 Department of Labor.

20 I've never seen my members so angry.

21 I'll talk about that in a minute.

22 The second component that we found was more
23 social issues; had to do with DEC, for example,
24 environmental regulations.

25 I'll be talking a little bit about SECRA.

1 That was something that we've gotten back a
2 couple specific responses.

3 And then the third one had to do with
4 compliance.

5 So you have economic, social, and compliance.

6 And within the compliance issue, I want to
7 talk about the Wage Theft Prevention Act; however,
8 what I would like to talk about, is some specific
9 complaints that we've gotten about the oversight
10 from -- in terms of the Wage Theft Prevention.

11 Obviously, I believe we're all on the same
12 page that the legislation needs to be repealed, but
13 the fact is, is that it's an active law right now,
14 and there are some issues that we're getting -- we
15 tend to be getting some complaints about the
16 oversight of it.

17 So, I'd like to talk about that.

18 If it's okay, I'd like to just read through
19 them, because they are specific quotes from some of
20 these.

21 So the first thing I'm going to talk about is
22 economic regulation.

23 Economic regulation on businesses includes
24 areas such as prices or wages and allocations of
25 public resources, such as usage of the tax dollars.

1 And one significant area, as I mentioned,
2 that is in need of reform here is through the
3 Department of Labor, and their unemployment
4 insurance regulations.

5 Historically, manufacturers have taken a
6 significant hit from the UI fiscal irresponsibility
7 and the lack of oversight.

8 Most recently, resulting from overborrowing
9 in 2011, New York owed the federal government
10 3.3 billion for borrowed funds so it could afford to
11 pay for unemployment benefits.

12 In 2011 alone, 115 million was owed by
13 New York in interest costs.

14 And, over 500,000 New York State employers
15 were blindsided by the aforementioned fees, with no
16 reason, other than the State could not afford to pay
17 it back.

18 These added fees, whether permanent or not,
19 significantly impact a manufacturer's ability to
20 operate a business here in New York.

21 And that's, obviously, because they weren't
22 expecting to pay those fees, so, that goes towards
23 paying those fees that are now required of them.

24 And they're told, it's just because we need
25 you to help us out.

1 We need to -- basically what my manufacturers
2 are saying is, they paid it, but, this is the second
3 time this has happened.

4 So, essentially, something needs to be done
5 about the regulation of this.

6 So they're asking that you help us out, and,
7 basically, not putting a Band-Aid on it, but making
8 sure that it doesn't happen again.

9 The second component I'd like to discuss is
10 the social regulation, as I mentioned.

11 And this also comes at a fiscal cost for
12 manufacturers, including areas in environmental
13 protection, consumer safety, employment
14 discrimination, and public health.

15 And a significant example is already
16 discussed, which is a DEC regulatory reform that
17 comes with improving SECRA, and permitting programs
18 to give business a more certain workable timetable
19 for the environmental review of major investment
20 projects, including, a more appropriate standard for
21 issues and DEC permit hearings, assuring the
22 regulatory timetables for project reviews are
23 adhered to, and creating an expeditated process for
24 applications that meet certain criteria.

25 So, basically, with that one, too,

1 self-explanatory.

2 Brian spoke to it quite well.

3 But, that's one of the responses that we've
4 gotten back, is that there are specific issues in
5 the DEC and overregulatory, specific in the SEQRA
6 area.

7 So, we ask that you visit that as well.

8 And then the third part I want to talk about,
9 and I'm pleased with this, because, again, it has to
10 do with the Wage Theft Prevention.

11 But, we are pleased to actually be getting
12 back some real feedback about how the oversight is
13 going right now.

14 So, I'm hoping hope you can visit this when
15 you head back to Albany.

16 But, compliance regulation significantly
17 hinders the manufacture's ability to function
18 effectively.

19 And this would include paperwork, for
20 example.

21 The Wage Theft Prevention Act that was passed
22 in 2009 is a prime example.

23 And then a specific area specified by our
24 members in need of reform, is by way of regulating
25 the Wage Theft Act.

1 The New York State Legislature recently
2 passed amendments to Section 193 of the Labor Law,
3 which governs deductions from wages, which then
4 signed into law.

5 Specifically, employers were given the right,
6 in writing, to deduct for the correct repayment of
7 an overpayment of wages.

8 Also, they are now able to deduct for a loan
9 repayment when they allow their employees to borrow
10 against future wages.

11 The issue is, that these new rules require:

12 "That the employer shall comply with
13 regulations by the commissioner for this purpose,
14 which regulations shall include, but not be limited
15 to, provisions governing the size of overpayments
16 that may be covered by this section, including the
17 timing, frequency, duration, and method of such
18 recovery; limitations on the periodic amount of such
19 recovery; a requirement that notice be provided to
20 the employee prior to the commencement of such
21 recovery; a requirement that the employer implement
22 a procedure for disputing the amount of such
23 overpayment or seeking to delay commencement of such
24 recovery"...and on and on, end quote.

25 This is specific from the language.

1 And to date, we have spoken with our members,
2 and the commissioner has not issued any regulations
3 for employers to follow and ensure compliance.

4 As a result, employers are going to be held
5 to a standard, retroactively, once it is written.

6 And it is our belief that by addressing some
7 of these regulatory burdens, that you'd be enabling
8 manufacturers to operate more efficiently and more
9 effectively.

10 In closing:

11 I actually spoke with Nate Andrews before.

12 We were talking about our testimony, and
13 I thought he made a great point.

14 You know, he spoke to it, but I'd like to
15 speak to it again today, that, you know, in terms of
16 even bringing business into our state, you know,
17 he's -- I hope it's okay, I'm speaking on your
18 behalf -- he was telling me that he's, you know,
19 talked to state -- you know, he's talked to
20 economic-development groups from out of the state,
21 and they're not talking about rolling out a red
22 carpet and saying, Here are all these
23 economic-development programs.

24 They're simply pointing out all the
25 regulatory burdens and taxes that Nate has to deal

1 with in New York State.

2 And that's not really the best strategy for
3 economic development.

4 MACNY has always remained a firm believer
5 that there's two components to getting us back on
6 track, and that's, matching economic-development
7 incentives, which we've taken a large
8 [unintelligible] approach in, and doing quite well
9 in the state, but, we need to couple it with
10 lowering taxes, easing the regulatory burden.

11 Because, other than that, it's not going to
12 happen.

13 Economic dollars can come in and in, but if
14 you have high taxes, you're not going to recruit
15 those people taxes, or incentivize those who are
16 here to keep building their businesses here.

17 I hope I answered some of your questions.

18 I'm happy to answer some.

19 If I don't know the answers, I can certainly
20 find them and get them back to you.

21 So, thank you very much.

22 Thank you.

23

24

25

1 SENATOR DeFRANCISCO: What regulations are
2 you waiting for from the commissioner, pertaining to
3 compliance with the Wage Theft Act?

4 KARYN BURNS: This actually had to go through
5 our HR department.

6 I'd like -- if it's okay with you, I just
7 don't want to speak out of line.

8 You know, basically what they were saying
9 was, the regulations that were put in place, there's
10 been no real instruction.

11 This is my understanding.

12 And so what they're looking for is, instead
13 of a retroactive, having to do it, it should be --
14 the regulation should be put in place.

15 If they're gonna say they have to do
16 something, then they should have to do it now.

17 SENATOR DeFRANCISCO: But you're complying
18 with something now, the law; right?

19 KARYN BURNS: Uh-huh.

20 SENATOR DeFRANCISCO: Why would you want to
21 encourage more regulation?

22 Because the regulation may be more onerous
23 than the bill.

24 KARYN BURNS: That's not -- actually, what
25 they're saying is -- what the members were saying

1 is: The law's in place.

2 They should be following, by right -- you
3 know, it just appeared to them that it wasn't being
4 regulated at all.

5 So, they're being told they have to do
6 something.

7 It's somewhat similar to what the
8 unemployment insurance was, where, they just didn't
9 know, and the next thing you know, they had to
10 comply by it.

11 So, they want to follow the rules, but
12 they're concerned that if they don't follow the
13 rules now, but they're not being told to do so,
14 they're gonna have to do it.

15 SENATOR DeFRANCISCO: Okay, can you just get
16 back to us and let me know what the bill -- what's
17 confusing about the bill that requires further
18 regulation, because you may get what you ask for.

19 KARYN BURNS: Absolutely.

20 SENATOR DeFRANCISCO: And that may not be --
21 then there might be another set of regulations you
22 want to remove next year.

23 KARYN BURNS: Absolutely.

24 And I just -- actually, so you know, we did
25 an HR meeting about this, a conference call,

1 discussed it with our members.

2 This is all HR directors from manufacturing,
3 so, they'd be happy to do that as well.

4 SENATOR DeFRANCISCO: Okay.

5 Thank you.

6 KARYN BURNS: Thank you.

7 SENATOR VALESKY: Otherwise, I assume if we
8 get final legislative approval on repealing in law,
9 the Wage Notification Act --

10 KARYN BURNS: Well, that's it.

11 SENATOR VALESKY: -- well, that's kind of
12 irrelevant.

13 KARYN BURNS: Yes, it's the lesser of
14 two evils.

15 But, they're complaining about the regulation
16 of it, because, they're not finding it there, and
17 they're concerned.

18 SENATOR GALLIVAN: Is it a concern that it
19 would then be applied retroactively --

20 KARYN BURNS: Correct.

21 SENATOR GALLIVAN: -- and then they'd have to
22 be reaching into their pockets?

23 KARYN BURNS: Correct.

24 So --

25 SENATOR GALLIVAN: And the larger concern --

1 I mean, that's a good specific example -- but, a
2 similar process --

3 KARYN BURNS: Absolutely.

4 SENATOR GALLIVAN: -- the State implements
5 something, you don't hear anything, you don't hear
6 anything, you don't hear anything.

7 And now, in this case, we're, what,
8 four years later, and you still haven't heard of
9 anything --

10 KARYN BURNS: And then they get a notice --

11 SENATOR GALLIVAN: -- and, yet, you're held
12 accountable for everything immediately?

13 KARYN BURNS: Absolutely.

14 The conversation that I had with the
15 HR members within our council were specifying just
16 that: that they're more concerned -- they don't want
17 the regulation at all, but they're concerned,
18 because the regulation is in law, but then they're
19 not being asked to execute it, or being held
20 accountable.

21 So they're kind of concerned, because they
22 don't know whether they're adhering to it or not.

23 And, the ramifications afterwards could be
24 far worse, because there is a history of that in
25 New York State.

1 SENATOR GALLIVAN: Your survey?

2 KARYN BURNS: Yes.

3 SENATOR GALLIVAN: We're anxious to see the
4 results.

5 KARYN BURNS: Absolutely.

6 SENATOR GALLIVAN: I mean, the timing of it
7 might coincide with what we're trying to accomplish.

8 KARYN BURNS: Wonderful.

9 SENATOR GALLIVAN: That, if we're able to get
10 this over the course of the next several weeks?

11 Is that reasonable?

12 KARYN BURNS: The final date due back is the
13 24th, which is next Wednesday.

14 SENATOR GALLIVAN: Excellent.

15 KARYN BURNS: So we'll compile those results.
16 I think you'll be pleased.

17 It's asking, specifically, we actually list
18 out every department --

19 SENATOR GALLIVAN: Excellent.

20 KARYN BURNS: -- and ask them to rank it, in
21 order, which one they have most issues with.

22 The information I collected from here came
23 from a, "Do you have any other comments with,
24 specifically."

25 And then, of course, there's the statistics

1 of, "Do you think you're overregulated?"

2 Which I can probably tell you is a yes.

3 A concise yes.

4 So, I will be happy to share that survey with
5 you, all of you.

6 SENATOR VALESKY: Thank you very much.

7 KARYN BURNS: Thank you very much.

8 SENATOR VALESKY: Next, Deb Warner,
9 vice president of public policy and government
10 relations for Center State CEO.

11 DEB WARNER: Good morning, Senators.

12 SENATOR GALLIVAN: Good morning.

13 DEB WARNER: Thank you again for this
14 opportunity.

15 It's been very interesting and encouraging to
16 see how much attention is going on recently with
17 regards to looking for reform, whether it's tax
18 reform or regulatory reform, to get ready for 2014.

19 So, that's making us very hopeful that we're
20 going to see some great things happen.

21 For some of the Senators who might not be
22 familiar with Center State, we're the regional
23 business and economic-development organization,
24 representing 2,000 companies in a 12-county region
25 in northern and central New York.

1 So, I also want to thank you for your efforts
2 on repeal for WTPA, and some other efforts that
3 you've already done earlier in the legislative
4 session.

5 There's three or four specifics I'd like to
6 talk to you about today that particularly relate to
7 manufacturing.

8 One of them has to do with sales tax, in
9 compliance of purchasing for equipment that
10 manufacturers buy, and whether or not it's exempt or
11 nonexempt, it's causing a problem.

12 As we've done outreach to our members in the
13 last month, with regards to the hearings that have
14 come up, this one came up a couple of times.

15 And one of our members said that they have to
16 have two or three employees spending about 20 hours
17 a month trying to keep track of complying with this
18 particular regulation, that's mentioned in the
19 testimony, and this relates to equipment that has
20 both manufacturing production-related and safety
21 applications.

22 So, one example told us that a rebar lanyard,
23 which is something that you use on a work-site,
24 manufacturing, and if it is positioned on the shop
25 floor so the employee can lean against it, and use

1 it for -- to, you know, make them more stable while
2 they're welding, then that application is tax
3 exempt.

4 But if they turn around and use the same
5 lanyard in a similar circumstance, and it's just
6 there for safety purposes, well, then it's taxable.

7 And another example is, with some analyzers
8 the a company has bought, and they use it in
9 multiple applications throughout their manufacturing
10 process.

11 So, if it's used in the
12 research-and-development function, it's exempt.

13 If they use it on the shop floor, that's
14 exempt.

15 But if a service technician takes that same
16 analyzer and uses it in the field, then it's
17 taxable.

18 So what I would ask you to do, is to work
19 with the Department of Taxation and Finance, and get
20 them to declare that any equipment purchased by a
21 manufacturer for safety purposes is tax exempt.

22 Let's just sort of clear that and get rid of
23 any nuances.

24 Another thing, which actually was surprising
25 to me when I started talking to some folks, and

1 found that, in New York State, the burden of proof
2 for some insurance claims, especially if it relates
3 to something that's happened in the past, is really
4 on the insured.

5 The insurance companies keep their policies
6 for a certain period of time, and then, you know,
7 they destroy them or have them shredded.

8 So, if something happens, and there's a
9 timeframe -- and this happens particularly with
10 manufacturers, because their products are out, being
11 used for a period of years -- now it's up to them to
12 produce an insurance policy to prove that they
13 actually had coverage, and bring the insurance
14 company in when they do have some problem with
15 liability.

16 So, apparently, we need to use some
17 technology and come up with a new document-retention
18 policy and system so that manufacturers don't have
19 to spend time doing forensic research for their
20 lawyers, and other people involved, when there is a
21 lawsuit and they need to -- or have a claim, and
22 they have to come up with proof that they had
23 coverage at whatever point in time in the past.

24 I know you were speaking to the folks about
25 agriculture recently.

1 That's great.

2 That's a growing industry for us.

3 That's really important.

4 One of the things I'd like bring up is
5 something that relates to manufacturing of
6 agriculture, food products, and sort of the
7 ecosystem, as New York State is -- our dairy
8 industry is growing, and with the yogurt plants and
9 cheese industry growing in our state, we really need
10 to increase dairy production.

11 So, we need to have systems and regulations
12 that further enhance that.

13 And there are regulations, mostly within the
14 DEC, about how agricultured byproducts are used and
15 regulated, permits, all the paperwork and all of the
16 various permitting and regulations that have to be
17 complied with when you're using an agricultural
18 byproduct.

19 And that's becoming very burdensome.

20 Also, the amount that we're increasing, as
21 these large yogurt plants come on, they have -- are
22 putting forth larger and larger amounts of
23 agricultural byproduct when they're done with their
24 food processing.

25 We need to find positive ways and incentives

1 to use those.

2 An example is, something that comes out of
3 both the cheese and yogurt industry, is one of the
4 byproducts is whey; that thin liquid that comes
5 after the manufacturing process.

6 That can be used by agriculture.

7 It can be spread on farm fields as
8 fertilizer, and it can also be used as feed for
9 animals.

10 It's got a lot of protein in it, and it's a
11 pretty good -- it's a strong -- I understand from
12 farmers, some farmers I've talked to, that's a great
13 product to be able to feed your animals.

14 But, there's a lot of regulations and
15 paperwork and permitting, and we need to take a
16 fresh look at that, so that the regulations and
17 policies that are in place really help enhance the
18 ability of the agriculture industry to be able to
19 put those things into good use, and not end up with
20 prohibition, where -- and regulations that prevent
21 the use of those products safely within the state.

22 SENATOR GALLIVAN: Are curds, as well, a
23 waste product?

24 DEB WARNER: I think curds are what becomes
25 the cheese.

1 SENATOR GALLIVAN: Oh, okay.

2 DEB WARNER: Yeah, curds is the -- my
3 understanding, is that's the solid --

4 SENATOR GALLIVAN: [Unintelligible] curd with
5 whey, so I wasn't sure.

6 DEB WARNER: Curds and whey.

7 Yeah, curds are the coagulant that happens
8 when you make cheese and yogurt.

9 SENATOR GALLIVAN: Yeah, I know.

10 I'm just kidding.

11 DEB WARNER: I think.

12 Okay, so their Part 360 permit process is one
13 of the places to start when trying to address that
14 challenge.

15 A couple of more broadly -- more broadly
16 mentioned things with members, not so much specific,
17 with regards to agencies and regulations, and trying
18 to comply, and accessibility is an issue.

19 When -- whether it's a company individually,
20 or one of their accountants or lawyers, are trying
21 to deal with state agencies, they often have
22 trouble, and spend a lot of unnecessary time, just
23 trying to stay in touch with whoever they need to
24 talk to in the agency.

25 In particular, two accountants that I talked

1 to, talked about Taxation and Finance, when they're
2 working with clients.

3 One, in particular, had to do with tax
4 credits.

5 Working -- there had been a challenge within
6 the Taxation and Finance Department about whether a
7 company was eligible for tax credits or not, so the
8 accountant was going to bat for their client.

9 And they have -- every time they call, they
10 have to go through this lengthy auto-attendant
11 process, and they frequently don't get back to the
12 exact same person, so they may hear a different
13 story. There isn't always consistency.

14 And, they don't get a call-back number.

15 You know, the agency employee could say,
16 "Okay, if we're going to follow up, here's is my
17 number, call me back directly," so they don't have
18 to spend all that time on the auto-attendant.

19 In one instance, too, they said, Well, we
20 need to do a conference call. We need to talk to
21 your client and you at the same time. That would
22 expedite things.

23 And, the State employee told them, they said,
24 Well, we can't do conference calls.

25 I will tell you, I tried this -- I tried this

1 for -- to help a member who has an established
2 business, which, technically, is a manufacturer, and
3 he now wants to sell over the Internet within
4 New York State, and has some challenges with trying
5 to be in compliance with sales tax for local --
6 collecting local sales tax around New York State.

7 So I called this -- that Division of Taxation
8 and Finance, and went through the auto-attendant,
9 which was lengthy. Many, many questions. And then,
10 supposedly, I was being transferred then to a
11 person, an individual, who could actually answer the
12 question.

13 And, I ended up with a fast-busy, and I got
14 cut off. And I probably spent 5 to 10 minutes, just
15 trying to do that.

16 So, technically, a state regulation? No, but
17 it's within the regulatory realm of how businesses
18 and taxpayers interact with the agencies that
19 regulate them.

20 So, if you can do something to help encourage
21 better technology and policies so that agency
22 employees can give direct phone numbers, and when
23 you've already got a relationship or a situation
24 established, they should be able to just call up the
25 person, follow up with the same person; not have to

1 go through all that waste of time every time.

2 I don't know if the conference-call thing was
3 true or not, but, it's just kind of crazy that they
4 can't do that.

5 And this was pretty consistent. I talked to
6 several clients who had manufacturers -- or, several
7 accountants who had manufacturing clients, and they
8 all cited that it's just very, very difficult
9 dealing with Taxation and Finance.

10 The other thing I'd like to suggest is,
11 something based on the other experience that we had
12 in outreach to our members, is, they're very
13 reticent to come forward, because they're afraid of
14 retaliation from the agencies.

15 They don't want to cause trouble.

16 They're afraid that, you know, somebody is
17 going to come down on them, just because they've,
18 you know, pushed back a little bit.

19 So, I wonder if you couldn't look at perhaps
20 establishing some sort of whistleblower procedure
21 that would have anonymity or some whistleblower
22 protections, so if a business, or even an employee
23 within the state agency, if they see something that
24 they see -- that could be remediated, improved, or
25 eliminate a regulation, that there's a safe

1 environment to do that.

2 Because, right now, I mean, if somebody's
3 being audited and there's problem with their audit,
4 with Taxation and Finance, or with the DEC, they
5 don't dare push back.

6 So, thank you very much for your time this
7 morning.

8 I'd be glad to answer any questions.

9 SENATOR VALESKY: Kathy?

10 SENATOR MARCHIONE: No, no questions.

11 SENATOR VALESKY: Thank you, Deb, very much.

12 DEB WARNER: Thank you.

13 SENATOR VALESKY: Next we'll hear from
14 Kip Hicks.

15 Is Kip Hicks here?

16 Kip here?

17 No?

18 I didn't see him come in earlier.

19 No?

20 Okay.

21 Then we'll move to Laura Miller.

22 Laura Miller, general manager of
23 Darco Manufacturing.

24 Good morning.

25 LAURA MILLER: Good morning.

1 And I'd like to thank you for holding this
2 hearing, and for listening, and for the opportunity
3 to submit a brief statement, I hope.

4 I don't do this regularly, so I'm kind of
5 nervous.

6 But, I am the general manager of
7 Darco Manufacturing, and we-- actually, the
8 description on this piece of paper from you guys is
9 a little bit off, so I'll correct that.

10 Maybe that's an example of government,
11 something.

12 I'm not sure.

13 [Laughter.]

14 LAURA MILLER: Anyway, but we do production
15 CNC machining, primarily.

16 We've got 26 people.

17 And I'll read the statement, it will just
18 take a minute.

19 SENATOR GALLIVAN: Production of, what?

20 LAURA MILLER: I'm sorry.

21 "CNC." Computer numerical-controlled
22 machining.

23 SENATOR GALLIVAN: What does that mean?

24 LAURA MILLER: Well, if you remember from
25 shop class, the -- you know, your bridge ports? The

1 milling machines and your lays?

2 You take that, enclose it, and apply computer
3 programming to do pretty efficient manufacturing.

4 So, it's all metal cutting.

5 It's not stamping. It's not hammering. It's
6 not bending.

7 It's -- we machine, with those basic
8 concepts.

9 So, anyway, our story is very similar to what
10 we heard from Nate Andrews.

11 It's not quite as old, but our values and our
12 philosophies are the same.

13 We understand that people are really what
14 make your company, not your machines, and not any of
15 the other things we hear about.

16 Really, your human resources is your most
17 valuable resource.

18 So, I have a slightly different take, though,
19 on the impact of government in our daily lives on
20 the production floor, than we heard from Nate
21 Andrews.

22 Do you mind if I just read the statement?

23 SENATOR VALESKY: Go right ahead.

24 LAURA MILLER: Okay.

25 I'm Laura Miller. I'm general manager of

1 Darco Manufacturing.

2 We've been in business since 1978, and I've
3 been with the company since 1988.

4 We have 26 employees. Our employees have
5 been with us, on average, for 16 years.

6 We, like dozens of privately held companies
7 in Central New York, do contract machining,
8 generally, CNC, for durable goods OEMs.

9 You know what "OEMs" are; right?

10 "Original equipment manufacturers"?

11 So, our stuff goes into, you know, planes,
12 automobiles, trains, hydraulics, whatever.

13 We make about 5,000 different things, by the
14 way.

15 Anyway, at this moment in time, we are
16 busy -- busy, busy, busy -- with work from a wide
17 array of industries. We're starting to book
18 overtime, and we're starting to hire.

19 It's a very exciting time.

20 I'd like to submit a few numbers for the
21 record, as part of the discussion here today.

22 As a manager, I try to focus my time on the
23 workplace issues that improve or impede our
24 competitiveness.

25 So here are some numbers:

1 The New York State franchise tax costs our
2 company \$1500 per year.

3 We sell \$3 million worth of widgets every
4 year.

5 So, if I've done my math correctly, that's
6 one-half of 1 percent of our revenue.

7 You guys can check that math if you want.

8 Our company produces -- we use electricity to
9 do what we do. That's our main input.

10 Our total electricity bill is 1.27 percent of
11 revenue. That's the total number.

12 And those machines hog a lot -- our machines
13 hog a lot of energy.

14 I don't -- I really would like some help
15 here.

16 I don't know what the 18-A energy tax is.

17 Is it on my bill here?

18 I don't know.

19 Some of the taxes we've discussed earlier,
20 I don't know what they are, but, I think they're
21 probably small numbers.

22 I don't know.

23 So, anyway, we can write that in this blank.

24 I've brought with me a blank wage-reporting
25 form from the New York State Department of Labor.

1 Do you guys have it?

2 SENATOR GALLIVAN: Yes.

3 LAURA MILLER: I'm really not good at forms.

4 I don't like forms. They're slightly
5 irritating.

6 But this particular form, as you can see, is
7 pretty intuitive and pretty easy.

8 So, the mandate, you know, administering the
9 mandate, takes about 5 or 10 minutes per employee
10 per year.

11 So, anyway, I'd like to put these numbers
12 into perspective.

13 We spend at Darco more on perishable tooling.

14 Now, "perishable tooling" are cutting tools,
15 drills, inserts. You know, reamers. Whatever.

16 These are things, they're "wear" items.

17 We spend more on perishable tooling than we
18 do on energy.

19 We spend more on coffee for our troops, which
20 we provide free, than we do on the New York State
21 franchise tax.

22 We, quote/unquote, lose anywhere from 10 to
23 30 minutes per employee, every day, to the
24 complexities of human beings working together to
25 move good quality product out the door.

1 That's reality. That's what it's like on the
2 floor.

3 I don't consider any of the aforementioned
4 items to be significant drags on our organization as
5 we compete in the marketplace.

6 If you'd like to come out, I'd like to invite
7 any of you to come out and visit us, so you can see
8 what we really do spend our time focusing on.

9 That's my statement.

10 SENATOR DeFRANCISCO: I have a question.

11 Okay, the form that you got attached, that
12 you have to do for the Wage Reporting Act --

13 LAURA MILLER: Uh-huh.

14 SENATOR DeFRANCISCO: -- you said it's not
15 overly burdensome.

16 LAURA MILLER: Uh-uh.

17 SENATOR DeFRANCISCO: Is there anything on
18 this form that isn't on your pay stub already?

19 LAURA MILLER: Probably not.

20 SENATOR DeFRANCISCO: Okay, so it's a waste
21 of time then, isn't it?

22 LAURA MILLER: It's a waste of a small amount
23 of time, yes.

24 SENATOR DeFRANCISCO: Yeah, so would you like
25 us to waste small amount of times in other areas, or

1 would you like us not to do these things to waste
2 any time?

3 LAURA MILLER: Well, this particular example,
4 I don't know the intent of the law. I don't know
5 who it's trying to protect.

6 What I'm trying to share with you, is it
7 doesn't really hurt us all that much.

8 That's my reality.

9 That's all can I tell you.

10 SENATOR DeFRANCISCO: Okay.

11 Go ahead.

12 SENATOR GALLIVAN: Not who; where do your
13 competitors come from: locally or across the
14 country?

15 LAURA MILLER: We have local competitors, and
16 from across the country.

17 SENATOR GALLIVAN: Now -- so your competitors
18 that you're dealing with from across the country,
19 are there things that New York State imposes upon
20 you that put you at a competitive disadvantage?

21 LAURA MILLER: I'm not aware of what they
22 would be.

23 What I know right now, is that work is moving
24 into this area so fast that we don't have enough
25 capacity.

1 And, when someone calls up and asks for some
2 emergency help to get going, they oftentimes have to
3 leave the area because other areas have capacity.

4 That's what I know.

5 SENATOR GALLIVAN: Well, if you -- and when
6 you go back, if you think of some -- if some things
7 that come up, that we might be helpful in trying to
8 take on, if you could just get back to us.

9 LAURA MILLER: Sure. I can try that.
10 I'll think.

11 SENATOR GALLIVAN: I mean, if -- you know, as
12 you're driving home, you're thinking, Gosh, I should
13 have thought about this, or you're talking to
14 somebody.

15 LAURA MILLER: Yeah.

16 SENATOR GALLIVAN: When you go back, if
17 things come up, please let us know.

18 LAURA MILLER: Sure.

19 SENATOR VALESKY: Thank you very much, Laura.
20 We appreciate your input today.

21 LAURA MILLER: You're welcome.

22 SENATOR VALESKY: That completes the list of
23 speakers.

24 We did have a few others who were scheduled
25 to testify --

1 Oh, I'm sorry, we do have Kip.

2 Oh, there he is.

3 SENATOR GALLIVAN: Now he lost his chance.

4 SENATOR VALESKY: Oh, that's it, I was about
5 to close.

6 KIPP KICKS: Sorry to be late, guys.

7 SENATOR VALESKY: Kipp Hicks, executive
8 director of Madison County IDA.

9 SENATOR GALLIVAN: Perfect timing.

10 SENATOR VALESKY: While Kipp is preparing,
11 Karyn, we have -- we're going to revisit the topic
12 of general manufacturing in Corning on --

13 October 9th?

14 SENATOR GALLIVAN: October 9th, yes.

15 SENATOR VALESKY: -- on October 9th.

16 So the surveys that you were talking about,
17 if they're finished in time for that, we would like
18 to include that.

19 KARYN BURNS: Absolutely.

20 SENATOR VALESKY: Kipp, go ahead.

21 KIPP KICKS: Thank you.

22 Again, I'm Kipp Hicks with the Madison County
23 Industrial Development Agency.

24 We actually represent the Madison County
25 Center for Economic Development. We are the voice

1 of economic development in the county.

2 SENATOR VALESKY: Kipp, just hold on just one
3 second.

4 KIPP KICKS: Yeah, yeah, please.

5 SENATOR VALESKY: Just want to make sure we
6 all have the same paperwork here.

7 What are you reading from?

8 Or, what are -- you're using--

9 KIPP HICKS: I put together a letter. I've
10 got a --

11 SENATOR VALESKY: Okay, so these handouts --

12 KIPP KICKS: The handouts are backing up some
13 of the --

14 SENATOR VALESKY: Okay. We just don't have
15 enough for all of us.

16 KIPP HICKS: I'm sorry. I didn't know how
17 many people I'd be presenting to.

18 SENATOR VALESKY: That's okay. We'll get
19 copies. That's fine.

20 KIPP KICKS: And, again, I submit that for
21 the record, and, hopefully, speak a bit off-the-cuff
22 on specific issues.

23 And, I walked in during the Darco discussion,
24 but, 18-A is a regressive tax.

25 I'll give you one example.

1 I'm working with a major agriculture producer
2 that's looking at Upstate New York for a site.

3 The monthly tax, the 18-A benefit, based on
4 the calculations worked up by National Grid, is
5 going to exceed \$15,000 per month to this company.

6 It's substantial.

7 It's something that should have expired at
8 the end of last year.

9 As you guys are aware, it was extended for an
10 additional year.

11 It's grown from .3 percent, to 2 percent, of
12 the total electricity bills.

13 The system-benefit charge for this potential
14 prospect exceeds \$40,000.

15 These are expensive bills that makes
16 New York State less competitive.

17 And it's very tough for us to make a hard
18 argument that they ought to be looking at
19 Madison County, the city of Oneida specifically,
20 versus other sites in Pennsylvania and New Jersey.

21 Another item that I mentioned was, the IDA
22 pilots lacks the step-up on the tax-levy growth
23 factor.

24 I'm sure you've heard this from your other
25 constituents, but, when a company approaches us, a

1 new company, adding to the tax base, constructing
2 new facilities, and they enter into a pilot
3 agreement through their local development
4 corporation, the taxing entities are not seeing that
5 increase.

6 It does not count above and beyond the
7 2 percent property-tax cap.

8 It's not affecting those taxing entities on
9 their revenues on the front end, nor are they
10 getting it on the back end once the pilot expires.

11 So, there's no step-up. There's no real
12 impact to those taxing entities.

13 And I hear that from school districts time
14 and time again.

15 It's a real issue.

16 And I'm under the impression there's at least
17 been some proposals.

18 Camoin & Associates I think was working along
19 with Brian McMahon from the NYCDC.

20 Third item I brought up was SEQR.

21 It's really an open-ended component that can
22 delay development projects.

23 We're trying to develop a business park at
24 the Ag and Renewable Energy Business Park at the
25 Madison County landfill.

1 We've been dealing with the DEC and SHPO.

2 We have finally published our draft generic
3 environmental impact statement and our finding
4 statement, but it was in excess of 18 months, and a
5 lot of that was waiting to see if there was going to
6 be a holdup by any of these regulatory agencies.

7 In speaking with Brian McMahon, he said he's
8 got a cement company that was held up for four years
9 before they finally got an answer.

10 And, again, I think what people, what
11 companies want, they're not afraid of hearing no,
12 but they need to have an answer.

13 And right now, there's not a very -- there's
14 not a clear timeline in which these state agencies
15 need to get back to private companies, to IDAs, to
16 help us with guidance on specific projects.

17 This next one might be a little bit touchy,
18 but, if you could help us work with regulators, in
19 helping them to understand, or what their
20 interpretation, of IDA statute.

21 Both the ABO and the Office of State
22 Comptroller view the IDA statute very, very
23 narrowly; whereas, in my opinion, our interpretation
24 is, that it's supposed to be an open-ended; it's
25 supposed to allow us flexibility.

1 The attachments, the addendums, that
2 I included with my testimony, there's three
3 different pieces there.

4 One is that -- is a lack of -- the State
5 seems to be pushing for consolidation.

6 And the Office of -- the Authority Budget
7 Office seems to want to, again, look at IDAs through
8 a very specific glass, through a very narrow focus,
9 and say, Now, it's not appropriate for industrial
10 development agencies to create a local development
11 corporation.

12 I've got a project, in particular, in which
13 we've got a C&D waste-recycling facility looking at
14 the -- our park as a regional repository to bring in
15 material.

16 We applied for State assistance through the
17 Environmental Facilities Corporation.

18 EFC said, Well, we can't grant to private
19 companies, but we can grant to IDAs.

20 So, they wrote the grant agreement to the
21 IDA.

22 Our legal counsel said, Wait a minute. Where
23 is the protection of liability? All of a sudden,
24 we're tied up with this private activity, someone
25 slips and falls, gets hurt on the job, the IDA needs

1 some insulation.

2 And they said, Well, we understand. Create
3 an LLC., a local development corporation. Hold the
4 grant or facilitate the grant through that
5 sub corporation, and you're insulated.

6 Well, we've gone and done that, and the
7 Authority Budget Office, I think the third and
8 fourth paragraphs of the correspondence from
9 David Kidera specifically says, Well, we don't know
10 where you get off thinking that you can create a
11 local development corporation.

12 And our legal counsel simply said, Hey, the
13 state statute says you can do anything necessary to
14 facilitate economic development. The State has,
15 actually, a state agency has, instructed us to take
16 this path.

17 And we're currently in a little bit of a
18 battle with the ABO, and asking them for the
19 Attorney General and the Office of State
20 Comptroller's opinion on interpreting what the IDAs
21 do and don't have the power to do.

22 Again, it's frustrating.

23 There's even a third example there, with
24 granting financial assistance. It's a special
25 report by the Office of the State Comptroller there,

1 that IDAs aren't allowed to provide grant fundings
2 except for very specific, narrow project-related
3 projects. Initiatives.

4 There are a handful of examples.

5 There may be, half of the examples submitted
6 within that special report that you can see, they're
7 economic development-related.

8 They're helping the community colleges to put
9 together business-plan competitions, or supporting
10 trade shows sponsored by the Economic Development
11 Corporation.

12 And those are being pointed at as, Hey, this
13 is irresponsible. These are -- money is being given
14 away for improper uses.

15 It's my opinion, that we need to help rein
16 in, or provide a little more guidance, on how these
17 state agencies, or these oversight agencies,
18 interpret our role as economic-development
19 councils -- as economic-development agencies.

20 And that's my final bullet, also.

21 When people talk about IDAs
22 (industrial-development agencies), it's perceived as
23 very narrow and specific industrial development.

24 I'm here testifying in front of you, trying
25 to promote business for all types of businesses.

1 We try to push for export initiatives.

2 We try to build collaboration between
3 colleges and universities.

4 All of this is part of economic development.

5 But through the definition of industrial --
6 or, through the title "industrial-development
7 agency," I think it's time for a change to
8 "economic-development agencies," just to help
9 broaden, to help other state agencies, or even our
10 prospects, to understand what our role is.

11 I'm happy to answer any questions.

12 And, again, I hope the written testimony is
13 helpful and more concise, I guess.

14 SENATOR MARCHIONE: From your perspective,
15 and you've done a great job in outlining some of the
16 issues you have, what's the single -- if you had a
17 issue single issue that was most onerous, if you
18 could tell us -- if you can't, I understand -- but
19 what would it be from your perspective?

20 KIPP HICKS: Again, taxes and regulations,
21 I think, are the biggest inhibitor.

22 SENATOR MARCHIONE: But not any specific --

23 KIPP HICKS: Well, again, I think we can add
24 them up. We've got the --

25 SENATOR MARCHIONE: I understand.

1 KIPP HICKS: -- corporate income tax, the
2 18-A assessments, the system-benefit charges;
3 I mean, all of those.

4 It -- I spent the start of my career,
5 seven years in eastern Idaho, doing economic
6 development for a private nonprofit.

7 Taxes at 2 1/2 percent. Electricity at
8 4 percent. A very stable, conservative State
9 Legislature.

10 I mean, just things -- I didn't realize how
11 difficult it was, moving home to my hometown and
12 doing the job of economic development, that other
13 states are exceptionally competitive.

14 And New York State does a good job through
15 NYSERDA, through our -- through Empire State
16 Development, there are ways to help lower the cost
17 of doing business, but usually that's very narrow
18 for specific industries or specific types of
19 companies.

20 We really need to take a big-picture approach
21 and try to lower the cost of operating businesses in
22 New York State.

23 SENATOR MARCHIONE: Thank you.

24 KIPP KICKS: I mean, it -- it --

25 SENATOR MARCHIONE: We agree with you.

1 KIPP HICKS: Thank you.

2 SENATOR VALESKY: Kipp, thank you very much.
3 We appreciate your input today. It will be
4 very helpful as we move forward.

5 KIPP HICKS: Thank you for your time.

6 SENATOR VALESKY: Again, another reminder:
7 We'll touch general manufacturing issues in
8 the Southern Tier on October 9th in Corning.

9 Our next scheduled hearing topic is the
10 construction industry. We'll be in Long Island on
11 Wednesday.

12 I want to thank my colleagues
13 Senator Gallivan, Senator Marchione, and
14 Senator DeFrancisco.

15 That concludes today's hearing.

16 Thank you.

17 (Whereupon, at approximately 11:21 a.m.,
18 the public forum on manufacturing regulatory
19 reform held before the New York State Senate
20 Majority Coalition concluded, and adjourned.)

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