BEFORE THE NEW YORK STATE SENATE
STANDING COMMITTEE ON INVESTIGATIONS AND GOVERNMENT OPERATIONS

PUBLIC HEARING

TO EXAMINE EXECUTIVE COMPENSATION AT NOT-FOR-PROFIT ORGANIZATIONS RECEIVING STATE FUNDING AND THE ACTIONS NEEDED TO PREVENT STATE TAX DOLLARS FROM BEING WASTED ON EXCESSIVE SALARIES

Legislative Office Building
Van Buren Hearing Room A - 2nd Floor
Albany, New York 12247

February 6, 2012
11:00 a.m. to 1:00 p.m.

PRESIDING:

Senator Carl L. Marcellino
Chair

SENATE MEMBERS PRESENT:

Senator Daniel L. Squadron (RM)

Senator Lee M. Zeldin

Senator Ruben Diaz

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SENATOR MARCELLINO: Good morning.

Can everybody hear?

Can you hear me in the back?

UNIDENTIFIED SPEAKER: Yes.

SENATOR MARCELLINO: Okay, that's fine.

My name is Senator Carl Marcellino. I am the Chair of the Committee on Investigations.

We welcome you to the hearing on executive compensation.

Joined with -- joining with me today are my colleagues, Senator Squadron, who is a ranking member; Senator Ruben Diaz; and, Senator Lee Zeldin.

We are here to discuss the issue of executive compensation for not-for-profit organizations receiving State funding, and the actions that might be needed to prevent any State tax dollars from being, we put in quotes the word, "wasted" on excessive salaries.

We've all seen stories in the media regarding certain groups, where the salaries and compensation for executives and their families seem to outstrip the amount of money that's in their budget, but being used by -- and they're spending, basically, State tax dollars doing it.

So, we want to make sure that the tax dollars

go towards the function for which they were designed; and that is, to provide a service to the public, to provide help to those who are in need, and not to pay off school loans, or the family members of some executives in various organizations, as was reported recently in "The New York Times," in a story.

So, we're just here to ask some questions.

Preconceived notions, we don't have.

We are looking for advice from you.

We have some speakers who have volunteered to come in and testify, and I appreciate that.

That's good.

SENATOR SQUADRON: You're joined by your echo.

SENATOR MARCELLINO: My echo has joined me.

My wife always says I have an alter ego.

[Laughter.]

SENATOR MARCELLINO: I'll keep talking until that echo disappears, Mr. Tech?

Okay.

We have testimony that has been submitted by organizations who are not here today, but they did submit written testimony; one of which is the New York State Rehabilitation Association, by their

CEO, Jeff Wise.

We have testimony submitted by -- on behalf of the following organizations:

The Human Services Council of New York City;

The Lawyers Alliance;

Not-For-Profit Coordinating Committee of New York;

The UJA Federation of New York;

And, The United Way of New York.

And, there was one other...

A group, submitted by Dan Luckens, executive director of Camp Venture, Incorporated, which is a not-for-profit organization serving adults and children with developmental disabilities.

This testimony will go into the record and be part of the final report of the Committee.

Our first speaker for today -- and each speaker has been asked to limit their time to about five minutes, to read, or summarize, their written statement; and, we thank them in advance for those who have submitted their testimony in advance, and then standing for questions and answers.

The first speaker will be Michael Cooney, partner of Nixon Peabody, LLP.

Mr. Cooney.

MICHAEL COONEY: Good morning, Senators.

SENATOR MARCELLINO: Good morning.

MICHAEL COONEY: It's a pleasure to be here today, and I appreciate the opportunity, especially after the exciting win last night.

It's good be a New Yorker.

My name is Mike Cooney. I'm a partner with the law firm of Nixon Peabody, LLP, and the head of its higher education and tax-exempt organizations practice.

My work concentrates on the affairs of nonprofit and tax-exempt organizations, their donors and supporters.

And, I've had the privilege, not only of doing this work with the organizations, but serving as well on a number of nonprofit boards.

I've also have recently had the honor of serving on Attorney General Eric Schneiderman's Leadership Committee for Nonprofit Revitalization.

As one who strongly believes in the value of the nonprofit sector to the people of state of New York, I urge the members of your Committee to evaluate and incorporate in your decision-making the existing processes and structures intended to ensure the fidelity of nonprofit executive compensation to

mission and performance.

In my personal experience, the vast majority of nonprofit executives are indeed undercompensated for the value that they bring to their organizations and the communities that they serve.

Importantly, there is already a legal structure in place, in practices, to assure the reasonableness of their compensation.

What is needed in the state, in my personal opinion, is a better understanding of this structure, and vigorous enforcement of the laws that already exist.

At the time of this writing, as you well know, the Governor's promulgated an executive order, eliminating the amount of State funding to the first $199,000 of compensation to provider executives.

The definitions of "compensation" and "executive" have been left to rule-making authority of -- I believe it's at least nine different State agencies.

The basis for the $199,000 figure is somewhat unclear, and the State budget contains similar limitations as conditions of funding.

The people of the state of New York and its nonprofit providers deserve better; deserve a better

system.

And through legislative action, it would be possible to bring greater certainty and impact to the expenditure of those State funds.

New York law already imposes on nonprofit corporate governing boards the responsibility to assure that executive compensation is reasonable and commensurate with the services performed.

New York law generally provides that officer salaries must be fixed by a majority of the entity's entire governing board.

Loans to nonprofit executives are, generally speaking, prohibited.

And most importantly, as was demonstrated in the case of Adelphi University back in 2007, the State has the power to remove fiduciaries of nonprofits for, among other things, approving excessive compensation.

Currently, though, State law does not delineate procedures to ensure compliance with these requirements. But, those organizations that are public charities, under Internal Revenue Code, Section 501(c)(3), are already familiar with a decade-old regime that arises under Code Section 4958, which establishes reasonable

compensation.

That statute sets forth a process, which, if used, creates a rebuttable presumption that the compensation approved is reasonable.

That rebuttable presumption of reasonableness has three core requirements, rather straightforward, that create a reasonable and effective rubric for setting executive comp.

Under the first, a group of board fiduciaries, independent of the individuals who are being compensated, is made responsible for dealing with the issue of setting comp.

Commonly, this is done through a delegation to a compensation committee, especially charged by the board with the responsibility for monitoring and overseeing the process.

The process is done with access to all relevant financial and performance information, and can be very complete and comprehensive.

The fiduciaries work under a compensation policy, declaring that all compensation of the organization must be reasonable, and setting the percentiles in which the compensation arises.

The second prong looks to comparables, because, even if you have a very independent and

thoughtful, motivated fiduciary, they need good information.

That process requires the individuals of, say, the compensation committee, to look at comparable positions at comparable organizations for levels of pay.

This information is already available because of IRS reporting on Form 990. It's available through the attorney general's website.

My kids can get to the information on guidestar.org; although, I will admit their ability to read the information is not as strong as one would need to have.

The bottom line is: Through that process, or even hiring compensation consultants independent of the management of the organization, there is the ability to get good, effective information, provided under penalties of perjury on the information return, in order to benchmark the executive comp for your particular organization.

Finally, the third prong of the test under the IRS rules, is that all those committee deliberations need to be set forth in writing.

And, we work with our clients quite a bit, to make sure that all of that process -- it's easy

enough to use a template -- is properly set forth, that the absence of conflicts are noted, that those comparables are set forth and attached; so, that, in one place, an organization has somewhere to go to look at the complete review of the executive's comp, and, why, for this executive, at this time, and this organization, it's reasonable.

With respect to transparency, I want to emphasize that these compensation levels are not hidden from public view, as one might suspect in the various news reports.

Most charities are required to report, in detail, compensation of board members, officers, key employees, and others, on that IRS Form 990, which, as I mentioned, is also incorporated in the filings with the New York State Attorney General Charities Bureau.

So, therefore, State regulators and the public currently have ready access to information for many of these entities.

With respect to enforcement, all of these approval and reporting mechanisms are of little value if the State fails to pursue a consistent and vigorous enforcement path.

The Governor's creation of a task force in

August, this past year, occurred in the context of serious questions about the million-dollar salaries and benefits paid to two brothers running a nonprofit.

Concerns about high levels of compensation at that organization, however, were already well known. Indeed, it appears in the press reports, that there was already a corporate-integrity agreement in place, with requirements for periodic reports and compliance.

Why those compensation practices were allowed to continue is a question, not only for your Committee, but for all the right-minded nonprofits and their boards all across the state.

I would simply ask that the exceptions not prove the rule.

Finally, in conclusion: I ask the Committee, respectfully, to consider the proposals emanating from the nonprofit sector. Much of this work has already been done through our structures already in place.

New York law should supplement and strengthen those existing federal requirements without imposing significant new costs and burdens which don't inure to the benefit of the people.

The nonprofit sector in New York State understands the importance of demonstrating the appropriate use of these scarce and, in these times, precious resources entrusted to them.

The imposition of blanket rules or limitations on executive compensation would do more harm to the process than help it, to the detriment of all New Yorkers.

And with that, I would like to thank you for the opportunity to hear me out on this issue, and greatly appreciate your having a hearing on it.

Thank you.

SENATOR MARCELLINO: Again, we appreciate you coming, and we thank you very much for your time and your testimony.

Just to make some clarifications, and then I'll let my colleagues make statements, if they would like.

Just to point out, that, in 2010, the Division of Budget found that, at not-for-profit organizations under contract with the State Mental Hygiene agencies, there were 1,926 employees with salaries greater than $100,000 a year.

That's -- their salaries totaled 324.6 million, in total.

The majority -- we all understand, and we make the statement declaratively: The majority of the over 140,000 not-for-profits providing services to the State, and to our residents, that are listed with the IRS, are doing a fantastic job.

We're not arguing with that. They do a great job; they do a fine job.

As always, we are looking for those that are abusive of the system, and we're trying to figure out ways to best curtail the abuses.

I think that's what we're looking for.

We recognize the service provided by the not-for-profits and the quality of their service; and, as I said, 99.9 percent of the time.

It's that .1 percent that causes most of our problems.

I found out, when I was teaching school, that the -- 99 percent of the kids in the school were there for an education. It was the 1 percent that drove everybody crazy.

And, that's the kind of thing we're dealing with, constantly, in this -- in this state.

As far as the $199,000 salary set by the Governor for his limit, in his executive proposal, it is my understanding that that came from, and I

could be wrong, but it --

And I don't mean to put words in his mouth. He can do that for himself, quite eloquently.

-- but, it was my understanding that the $199,000 was the top pay that any federal person, who was, like, the second in command under a commissioner, could make, at the federal level.

And, he chose that as the cut-off point for his proposal.

So, that, I think, is where that came from; so, we can bring that to a point.

But, now, I would like to turn it over to my colleagues who might want to make some opening statements.

Senator Squadron.

SENATOR SQUADRON: Thank you very much to the Chair for convening this.

I think that, both, from the testimony we've already gotten from the turnout today, this is an issue that absolutely has to be dealt with, as the Chair has said, and is, maybe, a little more complicated than it seems at first.

So, the opportunity to really dig into it is deeply appreciated, and, I want to thank the Chair for that.

I think that one of the key questions here -- there's -- there are, really, going to be two questions today.

And the first one is: Is there a problem?

And I think that the news reports, et cetera, have shown that, clearly, there is some sort of problem, but: How big is that problem? And, how do we deal with that?

I think the second one, frankly, is: Is the solution really as concerning as all that?

And, I think that the Governor deserves a lot of credit for stepping in, in his first year, on this issue, and putting something forward that is going to change the status quo.

And I think that what we're seeing today, is the way in which that change is going to have a ripple effect through the nonprofit sector.

I think we all agree that the nonprofits in this state serve an extraordinary purpose.

In fact, in a time of State budget austerity and State cuts, they serve as critical a function as ever; and, perhaps, more critical than ever.

And hamstrung -- to hamstrung our nonprofits, to make it harder for them to serve the people in this state who are in most desperate need of it,

would be just an absolute tragedy.

To control what happens, and ensure that we're not wasting State dollars, is an absolute imperative.

And, so, the ability to really talk through this issue and understand it, as the Governor moves forward on the legislative side, is something that I really appreciate.

I do have a question -- just two questions for the current witness, and I'll go right to the --

SENATOR MARCELLINO: Why don't we just hold the questions, and just make statements. And, then, we'll all have a round of questions.

SENATOR SQUADRON: Great.

SENATOR MARCELLINO: How's that?

Ruben?

SENATOR DIAZ: No, I'm just glad that you called this meeting, Mr. Chairman; but, also, I'm kind of disappointed, because I don't see that any member of the -- any member of the task force, who are the ones who, also, are supposed to investigate, and provide the Governor with whatever he wanted -- he intended to do.

I've been invited, or, I'm here today to be -- to testify.

I can ask some questions for them, and I see that none of them are here today.

SENATOR MARCELLINO: That isn't their fault.

That is the -- this is a Committee hearing, not a task-force hearing.

SENATOR DIAZ: Yeah, but --

SENATOR MARCELLINO: The Governor's task force is operating on its own time schedule.

I am a member of that task force. I sit on it, so does Assemblyman Englebright, because we chair the two Committees -- the two relevant Committees, in our respective chambers.

But, that task force is operating on its own time frame, and is under the leadership of Ben Lawsky, who is the --

SENATOR DIAZ: Excuse me, Mr. Chairman --

SENATOR MARCELLINO: -- the Commissioner of Financial Services.

SENATOR DIAZ: Excuse me, I'm talking about the task force that go and inform, composed by Inspector General Biben, Secretary of State Cesar Perales, DRS [sic] Superintendent Benjamin Lawsky, and Medical [sic] Inspector General Gene Cox; that task force --

SENATOR MARCELLINO: That's the same task

force I just mentioned, Senator.

SENATOR DIAZ: So, are --

SENATOR MARCELLINO: They are operating under Ben Lawsky's leadership, under their own time frame. They're collecting data at the present time, and evaluating stuff, and putting it together, so that we can meet.

And, we've had two meetings of that task force.

More are scheduled, so that we can understand the data.

As I said, there are 140,000 entities that we're collecting information from.

SENATOR DIAZ: So, we have not the opportunity of asking the members of the task force questions?

SENATOR MARCELLINO: Not today, no.

Senator Zeldin.

SENATOR ZELDIN: I just want to thank you, Chairman Marcellino, for putting this together.

I have some specific questions for Mr. Cooney, and some others. And, I'd really like to get into more of the substantive part of the problem that certainly exists across the state.

I want to echo what Senator Squadron just

said, in giving kudos to Governor Cuomo, his first year in office, tackling a very complex issue.

And, I'm looking forward to the remainder of this hearing.

SENATOR MARCELLINO: Thank you.

Like I said, we'll just go around.

I just have a couple of points.

Mr. Cooney, you mentioned in your statement, the term "reasonable";

"New York law imposes on nonprofit corporate governing boards, the responsibility to ensure that executive compensation is, quote/unquote, reasonable and commensurate with the services performed."

I -- that's one of my problems, is the definition of -- and I think you mentioned it later on in the statement, but, the definition of "reasonable."

Do we have a suggested definition of what is "reasonable," or should it vary from organization to organization?

MICHAEL COONEY: My suggestion, Senator, would be to use the existing definitions and the regulations that the IRS has already toiled over for years, and provided us with guidance on the federal tax-exemption side.

It is, as you point out, something which can differ from organization to organization, as to how the standard gets applied.

But, clearly, in those cases that have been cited in the press, and things that have been talked about, I certainly think that the State has the ability to contest those salaries; to hold those boards responsible, on the basis that, perhaps, amounts paid are not reasonable.

SENATOR MARCELLINO: I went through, and I -- the IRS governance of 501(c)(3) organizations.

And, I don't see here, and maybe I misread it --

I'm not an attorney, so, you'll have to pardon my handicap.

-- but, I don't see here, a specific percentage, or -- it's very general. It seems very broad. It leaves a lot up to the governing boards of each of the entities.

And it's been my experience with many of these governing boards, that a lot of the membership is appointed by the CEOs of the organizations themselves. In many way cases, they're just rubber stamps. They don't necessarily have a lot of independence. On paper they do; but, in fact,

they're not.

So, how do we get past that so that we can make sure that there are some real guidances, so it doesn't have to fall upon a State entity; or the IRS, which is draconian, when they come down on people?

MICHAEL COONEY: I would be happy to provide you, Senator, with copies of the relevant language from the IRS regulations, to the extent that it might be helpful to your Committee.

With respect to oversight by boards, again, the law contemplates the State relies on independent volunteers as fiduciaries overseeing these organizations.

I full-well understand the concern about levels of independence, and the ability of those individuals, for whom I would point out, the cash flows all go in the other directions.

You know, we're making contributions. The organizations we work with, we don't get paid by them for board service.

But, in that respect as well, you're exactly right; there needs to be more focus brought to the role of the boards, their independence.

And, I think, giving them these tools, making

them better know, making them, frankly, a state legal standard, would be helpful in that regard.

SENATOR MARCELLINO: Thank you.

I would appreciate copies of your points that you just offered.

Senator Squadron, if you have any questions?

SENATOR SQUADRON: Thank you very much.

And I thank you very much for testifying today, and sharing your perspective.

I get the sense that you agree that we need to be diligent in ensuring that nonprofits are fulfilling their duty, both to taxpayers and to their missions; but, that the Governor's executive order raises some real concerns for you.

MICHAEL COONEY: Well, my concern with the executive order, as it stands, is that, in many ways, it's not clear enough.

And I understand that each of the State agencies, in 90 days, is supposed to provide guidance to the relevant funded agencies.

But, my hope would be that there would be a much broader discussion, with respect to these compensation issues again, because we have many pieces in place that we all could benefit from if they were more widely known and widely used.

SENATOR SQUADRON: Right; but, most simply, what do you think of a $199,000 max, across the board, for executive compensation for nonprofits?

Does that make sense to you, or not?

MICHAEL COONEY: My concern is this:

As was noted earlier by the Chair, the whole issue of, what is reasonable in a particular circumstance, is something that any funder --

If it's not the State, it's a community foundation, which I've sat on the board of. Or a United Way.

-- any funder needs to make decisions about what it's willing to fund, and what it's not willing to fund.

In the case of the state, however, it is sending a tremendously strong message to the nonprofit community, of a hard stop at $199,000, without definitions of, What is "comp?"

Is it total compensation, including benefits, including deferred-compensation plans?

Who are the executives who are subject to it?

It's very hard to react to the standard in the absence of broader information, to see how it might be applied.

SENATOR SQUADRON: All right, from your

knowledge of the world, what sense do you have; what fraction of nonprofits have, someone, or multiple people, paid more than that?

MICHAEL COONEY: Certainly, this is not --

SENATOR SQUADRON: It's easy enough to find on the website, as you said, so I assume that you went through it.

MICHAEL COONEY: Certainly, it's not an empirical study in any way, but I would say that the vast majority of the executives working in nonprofits are below that level.

SENATOR SQUADRON: So, in what sector are folks above that level?

MICHAEL COONEY: Well, I think, in order to ascertain that, you would look, really, at the complexity of the organizations.

Certainly, in health care.

Certainly, in education.

And, in other areas, perhaps, further away.

Perhaps, the arts, in some context; where, you have a multi-national organization that works on a multi-national basis, you'll see those levels of complexity, where, in order to attract good people, one has to have some flexibility in order to provide appropriate compensation.

SENATOR SQUADRON: Now, those culturals are probably not getting the threshold of State money that's --

MICHAEL COONEY: Precisely right.

Although, your question went to nonprofits, generally, so --

SENATOR SQUADRON: So, we're probably talking about the health sector -- within the nonprofit sector, we're probably talking the health subsector?

MICHAEL COONEY: That's correct.

And I would say --

SENATOR SQUADRON: Any other?

MICHAEL COONEY: -- as well, there may be services with respect to mental hygiene. Perhaps those with respect to drug and alcohol.

As the organizations get larger, and there's certain economies of scale in larger organizations, not surprisingly, you will see the levels of compensation to the executives rise to some degree. There's more that they need to deal with.

SENATOR SQUADRON: And just to be clear: Is the concern about having any cap at all?

If it was 499, rather than 199, would you be here today, saying the same -- a similar thing to what you're saying?

MICHAEL COONEY: Well, I would be here today, because, a cap, if you will, that's too high is a cap that's meaningless.

What it points out is, the need for the discussion about, as the Chairman had raised earlier: What is reasonable? And what should the State be paying for these necessary services?

SENATOR SQUADRON: And just a final question, because I know we have a number of other testifiers.

What's unreasonable, in your view?

MICHAEL COONEY: Unreasonable, as a level of compensation?

SENATOR SQUADRON: For example.

MICHAEL COONEY: Well, in a particular example, if I were to ascertain whether something was unreasonable for an organization, I would look at the specific position.

And, as you get below CEO, these can differ dramatically, with respect to the requirements of the position.

What exactly is required of this person?

How many hours a week are they putting into that job?

What sources -- what resources do they need?

And, then, to look at the geographic area

they're in, the type of provider that they are, and the comparable levels of comp.

SENATOR SQUADRON: Do you have any examples of an unreasonable compensation, that you're aware of, in the state?

MICHAEL COONEY: Senator, I was asked this question, I believe it was by "The Wall Street Journal," years ago, when our current governor, I believe, was bringing an action -- I remember an action was being brought against the former head of the New York Stock Exchange, who was getting paid an amount which seemed highly excessive to me.

And I was asked whether or not I thought that amount was unreasonable.

As I recall, my answer at the time was, that it certainly seemed like a lot of money to me; perhaps, more than he needed to be paid.

Interestingly, as I recall, through the court systems, he was vindicated.

So, I --

SENATOR SQUADRON: So, somewhere between, 199, and 100 million dollars, is the -- we find to be --

MICHAEL COONEY: Well, again, I think it really requires the organization to look very

closely, and the State to look very closely, at the organization, and what they're paying for it.

SENATOR SQUADRON: Okay, thank you very much.

I really appreciate you being here, and helping us untangle this issue.

MICHAEL COONEY: It's an honor.

SENATOR MARCELLINO: Just for the record, that that attorney general became governor, but it isn't this governor.

Senator Zeldin?

SENATOR ZELDIN: Mr. Cooney, we haven't met before.

I just -- for background, would you mind providing us a little bit of information about some of the not-for-profits you've been affiliated with, just for my own personal --

MICHAEL COONEY: Yeah, I'd be -- actually, I'd be proud to.

I've worked for over two decades in my practice, which concentrates on the affairs of nonprofits, and those who love them: donors.

I've had the opportunity to work with the largest nonprofits in the state, and, actually, across the country, in health care, education, social services, religious organizations, cultural

and arts organizations; all the way down to the Pittsford-Mendon High School Baseball Boosters.

So, it's a very wide range of organizations.

And, I had the opportunity, as well, to work throughout the state, from the very end of the tip of Long Island, up to Buffalo, and into the North Country, and see the effect that these organizations have on the communities in which they work.

SENATOR ZELDIN: Well, what are some of the largest not-for-profits that you've been affiliated with?

I'm just trying to get a perspective.

MICHAEL COONEY: Sure.

Well, I -- on the way here, I just walked past the research foundation of the State University of New York.

Here, locally, have the privilege of working with RPI, Rensselaer, and Union.

I get to work with the University of Rochester, for example, where my main office has been for years.

With The United Ways, with the community foundations. In Buffalo, Rochester, Utica, Albany.

And then, as well, with a number of

institutions Downstate, in the city, and on the Island, some of the health-care providers; again, community foundations, and such.

SENATOR ZELDIN: Now, just earlier, Senator Squadron's last question was asking for, you know, specific examples of abuse.

And, I didn't quite under- -- I didn't quite connect, or understand, the answer to his question.

I was -- we were out of session, last June. And, as we went through the months of July and August and September, it seemed like, every single day, like, "The New York Post," or "The Daily News," "The Times," there was some new story of some type of abuse in not-for-profits.

And, I don't know if -- you know, where they're getting all of this information from, all of a sudden, but, it seems like someone, basically, backed up just a truckload of material for stories.

And, you know, it kind of came out of nowhere.

So, you know, for me, my intrigue with this particular issue, is, you know, not knowing what I don't know.

And that's why Senator Squadron's question was really, you know, so good, because he's asking

for, you know, specific examples of stuff that we may not know about.

Being that you serve on Attorney -- you served on Attorney General's Schneiderman's panel on this issue, I was just -- I was hoping -- I was going to ask the same exact question, just hoping that you might be able to shed light on -- on some of what we don't know about not-for-profit abuses out there, specific examples.

But, if you're ever able to supplement that, I would be -- that's one of the most intriguing things about this issue, for me.

MICHAEL COONEY: Well, Senator, I would offer two things.

First: It's my understanding, that the report that was provided to the Attorney General from the Leadership Committee, will be published at some point soon.

And, I'm sure we'll have a number of good points with respect to the process. The discussions were excellent that we had in that context.

One issue, though, I would suggest you might want to consider, and something to take up, and it goes to this issue of reasonableness, is what we in the business, if you will, call the "Lake Wobegon

Effect"; meaning, as you well know, in Lake Wobegon, all of the children are above average.

When one is setting executive compensation, it's very important to keep in mind, as you're looking at those comparables, that there is a tendency, and I think it's a very human tendency, to assume, that whoever is in the organization you're working with, and you've been supporting so strongly, is got to be above average.

Well, you can only imagine, Senator, what happens, if everyone gets pegged at the, 60th or 75th percentile, over time --

And I think the IRS has seen some of this.

-- you could see a rise in salaries, just because, in fact, people are doing a very good job of benchmarking, but with the expectation that their person is better than everyone else.

Is that an epidemic in the industry? I would -- certainly not.

But, again, it's one of those very thoughtful considerations that we need to take into account, as we're looking at what's reasonable, and what the appropriate level of compensation is for these individuals.

I would say to you, that, in the work that

I've done, the executives I worked with have very much welcomed this process; because, frankly, they don't want to be in the position of having to explain their levels of compensation. They're already publicly available on the Form 990.

The ability to say, "We had an independent board committee, with comparables, that set this forth, and I'd like to concentrate on the business of the organization, and helping out people," is a much more effective place to have them.

SENATOR ZELDIN: What's the most amount of money that you've seen not-for-profits hold on to, as far as cash balances at any given time, in the state?

MICHAEL COONEY: Cash -- days on hand, cash available, varies tremendously.

SENATOR ZELDIN: I'm looking for the higher end of that picture.

I can imagine -- I've seen, in, you know, great not-for-profits on Long Island, unfortunately, their cash balance is pretty close to zero.

But I'm really getting at it, you know, what do we see on the other end of that spectrum?

MICHAEL COONEY: You know, I -- again, it varies so much, even within industries.

But what I would say to you is --

SENATOR ZELDIN: Let's take health care, for example.

MICHAEL COONEY: Well, in this current economic state, in -- with levels of being -- reimbursement being what they are, and with the demands being put on the systems, pretty much, every one of them I could think of, is heavily reliant on lines of credit, simply because there's not the available cash that one would expect, and, if you will, in a normal business atmosphere, to be able to pay those ongoing expenses.

Access to that credit is hugely important in getting the work of the organization done.

SENATOR ZELDIN: Are there organizations -- you know, are there organizations out there that have tens of millions of dollars of, you know, cash balance at any given time?

MICHAEL COONEY: Most certainly.

I mean, we're blessed in New York State of having organizations with large investment funds.

I mean, think of, for example, in the university context.

But, for the most part, those assets -- restricted, many of them; some of them,

unrestricted -- are invested for a longer term in order to provide an annual cash-flow payout, in order to meet those needs, including executive compensation, I'm sure.

SENATOR ZELDIN: I mean, is -- are there organizations that have hundreds of millions of dollars of cash balance at any given time?

MICHAEL COONEY: I can't tell you that.

I don't know.

SENATOR ZELDIN: Okay.

My last question, I'm just trying to understand this as well: If you have a not-for-profit, can you -- I mean, at the end of the year, essentially, you're -- the amount of money that you have in revenues and expenses, you know, pretty much, is supposed to equal out towards the end of the year.

What kind of -- what kind of experience have you had with seeing the individuals that run not-for-profits; essentially, billing, management consulting fees, from for-profits, at the end of the year, and balancing out at zero?

Have you experienced that at all?

MICHAEL COONEY: I have not.

I have not.

To the extent that there is any amount net of costs at the end of the year, more often than not, that's something that has to get folded into the next year; because, again, especially in this environment, that is such a rarity. And, the organization needs to plan for having resources available to meet the needs in the next year.

SENATOR ZELDIN: And for sake of time, I'm willing to hand it back over to our Chairman.

Thank you, Senator Marcellino.

SENATOR MARCELLINO: Thank you.

Go right ahead, Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President.

Mr. Cooney; right?

MICHAEL COONEY: Yes.

SENATOR DIAZ: Mr. Cooney, did you consider yourself a lobbiest?

MICHAEL COONEY: A -- I'm sorry?

SENATOR DIAZ: Did you consider yourself a lobbiest?

MICHAEL COONEY: A lobbiest?

SENATOR DIAZ: Yeah.

MICHAEL COONEY: No, sir.

SENATOR DIAZ: You're not a lobbiest?

MICHAEL COONEY: No.

This is the first time I've spoken in front of the legislature on, pretty much, any issue.

SENATOR DIAZ: So, your job is to fight for, whom?

MICHAEL COONEY: My purpose in being here today, Senator, was simply to make the members of the Committee aware of the fact that we have structures on the federal side in place, that are intended to deal precisely with the sorts of issues that you're grappling with right now.

SENATOR DIAZ: You represent Nixon Peabody; right?

MICHAEL COONEY: That's correct. I'm a partner with the firm.

SENATOR DIAZ: On the firm --

MICHAEL COONEY: I'm not here on behalf of any client, if that's what you're asking.

SENATOR DIAZ: I'm asking, because, in -- on August 3rd, the Governor created a task force.

Have you been contacted by that -- by the task force?

Are you being questioned by the tax force?

Your company had been contacted by them?

MICHAEL COONEY: No, Senator, I haven't had any contact with members of the task force.

SENATOR DIAZ: Did you know of anyone that the task force has contacted?

MICHAEL COONEY: Well, I'm aware of the fact that -- that several of our clients, as well as a number of nonprofits throughout state, received a questionnaire from the task force, and responded to it.

But, that's been my level of involvement with anything.

SENATOR DIAZ: So you don't know what the task-force rules and regulations, and what are they intended to do?

SENATOR MARCELLINO: He's not a member of the task force, Senator.

SENATOR DIAZ: I understand, obviously.

Could you allow me to do my questioning, Mr. --

SENATOR MARCELLINO: I just wanted to clarify that.

SENATOR DIAZ: I will get to the point.

SENATOR MARCELLINO: Yeah, I hope so.

SENATOR DIAZ: But, I -- yeah. Don't put the -- he's a lawyer. He know how to protect himself.

Mr. Cooney, see, I'm trying to find out,

because, here, the task force, the Governor, in the executive order, Number 38, he issued some directive to the not-for-profits.

And one of that directive, was that they not supposed to pay their executive more than $199,000.

Are you aware of that?

MICHAEL COONEY: Yes. That was the executive order that came out just a few weeks ago.

SENATOR DIAZ: And you are saying that is not enough?

MICHAEL COONEY: What I'm saying is, that, my suggested approach, with respect to the setting levels of executive compensation; in particular, what the State would reimburse, should take into account a number of these other benefits that are out there --

SENATOR DIAZ: Let me read you something that came in today "New York Post."

Mark Lane, the CEO of the Fidelis Care received $1.1 million in salary, plus $864,000 in benefits;

Patrick Frawley, the -- another one of the directors of Fidelis, received $587,249 in salary, plus $900,000 in benefits;

Anthony Watson, CEO from EmblemHealth, get

the compensation package of $8.5 million.

They're all getting money from the government.

So, when the Governor says, $199,000, no more than that, we are saying, is that good, or that is not enough? -- according to your position.

MICHAEL COONEY: From my perspective, if the concern of the State to be sure its dollars are well spent, certainly, a dollar cap is one way of approaching that issue.

One might ask, where the cap should be; how the cap should vary; what it should apply to.

In fact, you have to ask those if you need to know how to apply the cap.

My point is, simply, that there is a host of other information about there, with respect to these compensation levels and practices, that would be a benefit to you to know about, when you're considering the efficacy of a cap, as the best way of making sure that State dollars are well spent.

SENATOR DIAZ: Did you know that, also, the order of the Governor, the executive order, also states, that, "Reimbursement with the State financial assistance of the State authorized payment should not be provided for compensation pay, or

giving to any [unintelligible]" --

And then he puts -- "to the extent practicable."

Meaning, that, the Governor's saying -- and then -- let me read on something else.

The Governor says, that, "The commissioner of each agency, however, has discretion to increase this salary, based on appropriate factor, and subject to DOB."

So the Governor is saying, too much money paid; but at the same time he's saying, too much money -- it should not be more than $199,000.

But at the same time, he's saying: Okay, so I'm going to give all the authority to the commissioners of the agencies, and the commissioners should decide, to increase, or to make it to 199.

So, the Governor's been saying: This is final.

The Governor's not saying, only $199,000.

He's -- he's mentioning the problem, but he's not curing the problem.

He's mentioned, this is the problem: They're making too much money. It should be this kind of money. But, however, the authority would be into the commissioner. Well, I'll let the commissioner

decide.

So is that -- is that -- according to you, is that is -- that would be -- that is solving the problem?

Or, just mentioning the problem, but not taking action with the problem?

MICHAEL COONEY: Well, I guess, Senator, one point I would make out of that, and the discretion given to the various State agencies, it, obviously, would be of immerse help to the provider organizations in the state, especially if they're receiving funding from more than one State agency, to have the same standards apply, so that they could be properly administered, and things properly accounted for, in this sense:

If the definition of "compensation" for one State agency is one thing, and it is something else for another, it creates, obviously, a level of complexity within the organizations and their ability to react to these things.

As you know, there were other issues in the executive order that went beyond compensation, where those could be concerns as well.

But, there is a strong concern, on behalf of the community, that, certainly, they want to comply

with the laws, work within the limits of what's there, but -- but, some level of consistency, and simplicity, in the standards would be tremendously helpful.

SENATOR MARCELLINO: Last question, Senator, please.

SENATOR DIAZ: All right.

This is my problem, and my concern: The area that I represent -- and not only my area -- Black and Hispanic and poor areas throughout the state are losing funding. Community organizations are losing funding.

The people are suffering.

They have been cut -- their services have been cut.

They have cut workfare in Medicaid. They have cut education for children.

I mean, we have been -- we are suffering.

And, on the other hand, do we have -- people making from the -- from this same money, such high salaries: a million dollars? $8 million? $3 million? -- when my people are suffering? When we don't have services to our community?

I mean, the only -- the only problem that I have, I -- I appreciate the Governor is saying, and

I need to mention the problem.

The only problem that I have, and the Governor, who say: This is it. $199,000, this is it.

But the Governor's not saying that.

The Govern's saying: It should be it, but I gonna allow the commissioner to decide.

So that mean that the commissioner could say: Oh, okay, you can go get paid whatever it is.

That's my only problem, and I -- that's what I wanted to talk to the member of the commission, because people are suffering in the state of New York. Services have been cut.

And it's a shame, it's embarrassing, that people are making so much money, when poor people are suffering in this area.

That's my question.

Thank you.

SENATOR MARCELLINO: Thank you, Senator.

Mr. Cooney, the -- just one point.

Should we go in a slightly different direction?

The Governor is looking at salaries.

And, the Senator is perfectly correct; he's giving commissioners leeway to adjust the number, as

they see fit, according to the job that's being done, and according to the hours being put in, as you described before.

But, should we go a different way?

Should we take a look at the percent of executive compensation, or any compensation, or administrative costs, as being allowed to be used from tax dollars?

Should we look at a percentage rather than a specific salary?

If your budget is a million dollars, should your administrative costs not exceed 5 percent of that budget?

And, is that a direction we should be looking at, or could be looking at, to make it a better plan?

MICHAEL COONEY: Well, Senator, I certainly think it is something that you would want to look at in the context of a number of different options.

What I would commend you, however -- and, again, this is a slightly different issue from that, with respect to executive compensation -- but, the whole issue of, direct-service costs versus general and administrative costs, and such, those, sometimes, at least in my experience, can be

somewhat hard to define, and trying to get a sense of those.

If you're speaking about a percentage of, let's say, the five highest-compensated individuals of the organization, as a percentage of total budget, you might find, in some of the very smallest of organizations in the state, that a goodly amount of their costs are compensation for the one or two employees that they may have to conduct their activities.

You know, usually, those are not organizations that are contracting with the State to provide services.

But, again, it's simply something to be aware of, as you look at those numbers, and see how those -- those things play out.

SENATOR MARCELLINO: Thank you, Mr. Cooney.

Appreciate your time, and appreciate your testimony.

And, if you could submit that other stuff that we talked about earlier?

MICHAEL COONEY: Thank you so much.

SENATOR MARCELLINO: Thank you, appreciate it.

The next speaker is Doug Sauer, chief executive officer of the New York Council of Not-For-Profits [sic].

Mr. Sauer.

DOUGLAS SAUER: Hello, and thank you for having this hearing, and --

SENATOR MARCELLINO: Move that -- move the microphone a little closer to you, so --

DOUGLAS SAUER: Okay.

Hello, and thank you for having this hearing, and inviting our organization, New York Council of Nonprofits, to give testimony.

I'm going to try to just summarize. I don't want to repeat some of the points that Michael made.

I know some of the other testimony you have will repeat some of these points. A lot of this information is readily available, and there's the IRS rules, et cetera.

Our organization represents 30 -- over 3,100 community-based nonprofits of all types throughout the state.

Our interest is the small- to moderate-sized community-based organization. We don't have members that are educational institutions. We don't have hospitals. It's about community-based

organizations.

And, I appreciate the statements made at the beginning, that -- about the value of not-for-profits, and the services that are being provided.

And, I can tell you that that is not the message that is being relayed out into the public discourse. It's not the message that my members are hearing, the vast majority of whom don't even come close to hitting that $199,000 in executive compensation.

They're hearing that there's -- there's hostility towards not-for-profits. That, it's getting harder to do their work. That, the State's business practice is strangling them already.

And, now, there's this whole public discourse that, somehow, they're doing something wrong.

So -- so, I'm putting a different -- a bit of a different context on this, in terms of, perhaps, some of the collateral damage that's being done. And, perhaps, with, particularly on that administrative-fee issue, what that really means.

I should note, our organization -- I've been with our organization 32 years as executive director.

We had run the State Board training consortium for ten years, up until it was eliminated just recently; except for, two State agencies continued.

It was the only ongoing educational effort to boards of directors on governance and management, including executive compensation.

And, right now, that work, by and large, is not continuing in this state.

So, part of this is, we would prefer that you educate rather than regulate, and look at it from that perspective.

I also have been the past board president -- the immediate past board president of National Council of Nonprofits, as well as, I'm currently treasurer; and I'm aware of what's happening in some of the other states regarding this issue.

I'm going to just kind of lay out -- in trying to cut through some of the various activities, and some of the thoughts around here, I'm going to try to lay out some basic premises, and then expound on them. And some of them, Michael already talked about, so I'll try to go light on that.

The media always asks me, that: Is there excessive compensation in nonprofits?

My definition is, yes, there is.

Is there abuse? Yes, there is. It's few and far between.

It's very elite situations, in terms of larger organizations, as was being pointed out a little earlier by Senator Diaz.

And, in some cases, it can happen with a small organization; where, an organization may have a $200,000 budget, and you see an executive director getting $180,000 of that, and, you see family members on the board of directors.

So, there's different ways that excessive compensation occurs.

And, I think part of the struggle here is, is that it's hard to just separate, are we talking about excessive compensation, or are we talking about State money?

It kind of straddles back and forth, and that's what's partially confusing some of this issue.

Are we talking about, is the State buying; or are we talking about excessive compensation from the nonprofit, irrespective whether the State's buying

anything from them or not?

Secondly, that, it's not a secret, and Michael brought that up, these salaries, and these excessive -- I will define "excessive," as, what is a sticker shock.

What shocks your consciousness. What -- it just seems outrageous, in many cases.

And I'm coming at it, not from an IRS perspective, but a public's perspective, because charitable not-for-profits exist because the public has confidence that they're doing the right thing, and doing it competently.

And I think, in that case, there can be reasonable compensation if they perform.

But, it's when people are looking at it, and says: This will affect an organization, that's -- if privately enuring. People are making money, in some kind of -- as if they were a profit-making entity off this corporation, and maybe it has nothing to do with the results that they produce, in the community, and the changes that they make.

But as I -- we had given you, just three clicks, you can get salary information off of guidestar.

I can give you my salary.

We told you what you -- we give you the details, that you can pull it right out. That information is readily available.

We have to ask the question, because the information's been readily available: How much money has the State spent, to date, collecting and analyzing this recent survey information?

Are we spending hundreds of thousands of dollars doing that survey?

Certainly, when we have had been approached by our members who got this survey, saying: This is going take hours and hours of our board and staff to do this. And, it's going to -- we even might need to consult with legal counsel, and pay legal counsel, to help us fill out this survey, in a defensive mode.

How much is it costing to find out what's already out there?

And -- and, I think, even as a taxpayer, if we're talking about taxpayer dollars, then we should be able to talk about:

What is this whole thing costing, and is that going to get the outcome that you're going to do?

How much time and effort does it take from nonprofits to use donor money, and other money, to

be able to do this survey?

Do we need more bureaucracies?

And that's -- that's, I think our fear is, we're going to create a bureaucratic process that's going to cost more money, trying to go after, probably, in a broad net, what is, really, an elite few of abuses to go after.

And I want to say, and we've had our members say, that: Hey, filling out this survey, and going through all of these hoops, is an administrative expense, that, by the way, the State doesn't pay us to do.

And that kind of relays that, most nonprofits, most small nonprofits, are totally burdened by compliance issues and State issues, particularly in this environment, on a day-by-day basis. And those issues cost more money.

It's getting so, you don't want to do business with the State of New York anymore; and, particularly, for community-based organizations.

They're drowning in doing that. And nobody can go out and raise money, and say: Give us money so you can subsidize the State of New York's administrative costs, and new regulations that they're coming, that we don't have to the capacity

to fulfill.

Undercompensation is much more of a prevalent and serious issue.

And that's -- I think that's where, I think, from our membership's point of view, the attitude is: That's not us. And, now, the public discourse is about us.

We don't see a headline that says, you know: 25-year-old community-based executive director is making $50,000, and doesn't have benefits. And their program is a great program, either in a boys' club or doing some other settlement houses, or some other program.

And, by the way, that should be something that shocks the conscience. That should be something that the State of New York should be concerned about. That is something that the public should be concerned about.

So, as we go along these conversations, it's very difficult for the average nonprofit to see that there's a lot of legitimacy behind what's happening here in policy, because:

They would rather see the policy being focused on underpayment;

They'd rather see that policy being focused

on: We can't get a contract in the state of New York, but we're expected to perform services;

Or, the State of New York is creating our cash-flow problems, and starting us to go down, as an organization, because payments aren't being made in a timely basis, and we're going have to close our doors of our community center.

Those are the burning issues to the average sector.

It's not this issue.

I did make note, and I think this kind of raises part of the issue, from our perspective: Taxpayers pay for salaries of many State employees and private for-profit sector businesses that are not coming under this scrutiny, and I wonder why.

That 2010 salary that was promoted around, that you had -- Mr. Chair, had indicated, has thrown out the issue of six figures.

Now we're talking about 199,000.

We talked [unintelligible], and what's in the public discourse, is now six figure.

People are talking about $100,000, not $199,000.

Put things in perspective:

In the fiscal year 2010, the Legislature

provided 136 employees of salaries over $100,000; or a total salary amount of over 16.5.

A review of the executive branch shows that there's 16,000 employees paid over $100,000, where, an annual cost to taxpayers, over 2.3. That's salary, not compensation.

The top-ten-paid employees in New York State, there's several that make over a million dollars.

The football -- or the basketball coach at University of Binghamton, makes 8 -- $119,000. And he has -- as we sit here today, he has a 0-22 record.

So, we're not -- what are we focusing on here?

Are we just taking one little narrow piece, and say: We're going to go over there?

Or, are we talking about, taxpayer dollars, and what we do with taxpayer dollars?

What about economic-development organizations, such as Global Foundries? They get a billion dollars.

Do we know what their executives are going to be paid?

Do we know how they're using state-taxpayer dollars for those salaries?

Do we care?

I would argue, we should.

And if we're going to have a broad view about this, we should look at it broadly.

Our point, basically, is not to malign the compensation levels of the public and private sectors, although, I do have to question the coach with a 0-22 record.

It's the performance of the nonprofit sector.

And, we, as, both, state taxpayers, and as, now, at the State of New York, really rely on nonprofits to be on the ground to do the work, much usually, in a much more cheaper way than public employees can; and, actually, go raise other money to subsidize that work.

So where fair, reasonable, competitive compensation is an important ingredient to the equation, excessive compensation is not. It hurts us all as non-for-profit organizations.

And, we need state government to support our workforce.

Now, when we talked about caps, for the average not-for-profit organizations that gets the average contract with the State of New York, it is by percentages of salary.

The salary is known. It's negotiated.

In many cases, the State agency will say: We're not going to pay more than 15 percent. We're not going to pay more than 20 percent.

Most State contracts pay 10 percent or less overhead, even though they know the overhead costs might be 15 or 18 percent.

So, in many cases, we have losing propositions.

In many cases, the State of New York already controls salaries of a lot of nonprofits that it does work for.

And, I think that needs to be part of this picture.

Another perspective, is that charities in New York State, and certainly Michael Cooney can talk about this, we're probably the most regulated in the country. And, we're one of the few states that even have a not-for-profit corporation law.

But, unlike not-for-profit businesses -- we're very much like not-for-profit businesses. Every single new regulation, every new reporting requirement, every new unfunded mandate, costs money.

And -- and what we're seeing, is, more

regulations, more requirements, more mandates, to be able to perform a service under a contract with the State of New York, and then the State of New York won't pay for it; which means, we have to go out, either, not provide that service, which means there's not so much of an interest in what the outcome might be, or, we got to go raise money from donors to pay for these mandates.

And -- and it's going to hamper not-for-profit -- it does hamper, right now, many not-for-profits from being in -- as high performing as they are. Whether it's compensation or it's just compliance regulations, we're constantly getting overregulated.

And I have to say, from my perspective, I'm looking at this, and I'm seeing a whole nother bureaucracy, a whole nother set of regulations, being established.

It's going to apply, not to the million-dollar executives. It's going to apply to the organization that may have $199,000.

The organizations that have good accounting firms that can manipulate cost accounting, because that's what we're talking about -- we're not talking about from the executive board, or any way, in

capping executive salaries. We're talking about, how much money of State money can go into those salaries.

That's an accounting issue.

Who's going to get hurt, is the community-action programs, or some of the smaller organizations, that don't raise a lot of money, it's mostly government-funded, and there's no other alternative sources to go and do that; yet, that person needs to be able to be there, and to manage the organization of regulation.

So, the larger you are, the more diverse you are, the more you have endowments, the more you have other sources of pots, the more you're going to be able to do the same thing you were doing before. And, you're going to pay the same thing before.

You move the pies around, in terms of the state-government dollars, and everybody will feel happy, but nothing has changed.

And the smaller organizations that are heavily government-funded, usually community-based organizations, are the ones that are not going to have the room to manipulate the system; or, even be able to provide, perhaps, the attorneys that might be necessary to advise them on how to maneuver

around this.

Administrative costs are rising every day around compliance issues, particularly at a Medicaid world.

And what's happening is, that more and more organizations are saying -- the small community-based organizations -- 3, 5, even, 8, 10 million -- are saying: We cannot exist as a small organization. We're going to have to be gobbled up by a conglomerate. We're going to have to form a merge with somebody else.

And when do you that, salaries are going to up even more so.

And Michael had said it right: Scale raises salaries.

Salaries are dependent upon: The level of complexity; level of professionalization; number of people supervised in that world; how successful you are, entrepreneurially, and otherwise; and, how much the budget size is.

That should be -- those are usually predominant indicators of what the salaries are going to be.

We believe that part of the problem here, from a policy perspective --

And I also sit on the AG's Leadership Nonprofit Revitalization Committee. We worked with the comptroller, for several years, on their reports.

-- everybody's working in silos. No one seems to be looking at nonprofit regulations, compensation in a broad way, contractural processes, procurement processes, payment processes.

It's being done across all of the State agencies differently.

And, actually, the way the Governor's order is read, it's going to be continued to be done differently, and nobody's looking at it as you would look at businesses' environment, and say:

How do we deregulate?

How do we eliminate waste; pure waste?

How do we make sure we -- the regulations we have are regulations that work, and are cost-effective?

And, how does relate to the dollars of the State contract?

And, how it does relate to the performance we're buying?

None of the conversation today has been about performance.

Is the State of the New York buying what people are -- what you want to buy?

And that's, fundamentally, a question.

And most nonprofits will say: You're on an outcome basis, and we have to -- our contracts control every penny we spend, and how we can pay.

We can't buy our copy machine. We have to lease a copy machine; but, yet, we're supposed to perform all these things, and we have less and less control.

I want to be able to say, the "reasonable" question, and I come at it from a different perspective: I think the IRS is unclear. It's about process.

The IRS doesn't seem to be really enforcing compensation, that's way too high, or outside. It seems like it almost has to have an egregious situation. It hits the media before anybody goes and does anything about it.

You have, right across the river here, in Troy, a college head that makes 1.9 million. Number six or seven in the country. College isn't even in the top 50.

Those things exist, and those things shock the conscience --

SENATOR MARCELLINO: Can we consolidate?

Because --

DOUGLAS SAUER: Okay.

What we would like to see, is -- is, actually, take a bit of a Connecticut model.

We would like to see a comprehensive approach to reform around how the State does business with nonprofits, so this all hangs together, and is logical, and it's not being done in a piecemeal way.

State of Connecticut has appointed a liaison out of the governor's office, and just created a cabinet on nonprofit health and human services, specifically looking at:

The relationship, the partnership; how it can be a positive partnership;

How it can be productive business relationship;

Get away -- you know, clarify waste, as well as, trying to make outcomes better on -- at that level.

So, we believe that this is the time to actually invest the opportunity this presents, is to really look at the State's contractual business environment, and work together with the State of New York in a comprehensive way, with all of the

units -- the executive branch, the comptroller, and the AG's office, as opposed to separate silos -- with the nonprofits.

And this is part of the issue that we have; is that, we have not been at the table to discuss this.

We have not been at the table.

This is the first time, I think, in terms of this issue, we've been invited.

The task force doesn't have not-for-profits on it.

The input was, more: What are you doing, and how are you doing it; and what's your ideas?

And I think, us, as a sector, we have a stake in this, because it affects us as an entire sector.

And from our perspective, we're very concerned. And, we want that good policy that works.

And we've really asked that this be done: that we're at the table.

I want to take a minute -- just a brief minute -- and say, that, there are things, you know, that hasn't been touched here, in terms of executive compensation; is that, New York State not-for-profit corporation law allows executive directors and

CEOs to be voting members of the board of directors.

So, I can be the boss, and I can be an employee.

And that intent that inherently pro -- is a conflict of interest, from our perspective.

And there's a lot of arguments about why it should happen, and it's okay.

But, you -- we have -- you know, we have things -- processes are set up, that I can do that. Process is set up, I can have family members on our board.

So when we talk about independence, and those kind of things, we're adding regulations on top of, perhaps, laws that need to be changed, fundamentally, to begin with, to avoid these circumstances for happening.

So, there's my brief testimony.

SENATOR MARCELLINO: Thank you.

And, I do appreciate your being here and taking the time to do this.

These are -- as you well know, these are tough times.

The public, as my colleague Senator Diaz said, they're suffering.

They're suffering economically. They're suffering in a whole bunch of different ways.

People are worried about their jobs. They're worried about what's going on in the next minute.

It becomes incumbent upon us to look at everything -- and I mean "everything" -- as to how a tax dollar is being spent, and is being used. And, is the taxpayer getting a bang for a buck?

We have an obligation to do that.

We will, and are, looking at every level of government. Every level of government has received across-the-board cuts.

I'm not going to go through the litany of cuts, and reduction in personnel, and everything else, including the Legislature, and including the legislative salaries, and including legislative personnel.

All have been reduced/cut over the years in response to fact that the State simply doesn't have enough money to cover a lot of the costs.

So, these are tough times.

I would just say this to the not-for-profits: As I said at the beginning, we recognize, 99 percent, doing a great job.

And I don't say that lightly.

You're doing a great job, and it's appreciated.

However, we have an obligation, and we must look at, and for, the 1 percent who are not, who give us all a bad name.

I hate it when I see a colleague go to jail.

One of my colleagues gets brought up on charges, I don't like it, because it makes me look bad.

The public says: Oh, there's another crooked politician. Ha ha ha!

I don't like that.

I work hard, and so do my -- the colleagues up here. We all work hard; we try to do the best we can.

One rotten apple can bring us all down. We all know that.

So, we're looking, and we're out there trying to check.

So, my message back to your colleagues and -- who are working hard in the field: Don't take it personal, because it isn't.

We're just doing what we have to do to make sure that we're spending the taxpayers' money appropriately, and making sure that the functions

that are supposed to be performed, are being performed by the entities who are taking the money to do that.

That's our job.

To that end: Do members of your organizations, the organizations that you represent, do they have a written policy?

Are there written policies for your -- for compensation of executives?

Or does it --

DOUGLAS SAUER: I think most of them have, because we do a lot of training, and we emphasized that for a number of years.

I mean, this -- some of them just laugh at it, and say, you know:

What are we going to do, evaluate a person, and whether they're comparable, to find out that we aren't providing benefits, only to say, we don't have the money to provide benefits?

So, do we need to go through all these hoops, when we know what we have, in terms of the poor agencies, and the agencies that really are struggling?

I'd say, probably, in terms of, maybe 40 percent has written policies. 60 to 70 percent

follows policies.

For some of these organizations, it's tough to even --

SENATOR MARCELLINO: 40 percent have policies --

DOUGLAS SAUER: Yeah. And --

SENATOR MARCELLINO: -- and, about, 60 to 70 percent follow?

DOUGLAS SAUER: -- 60 to 70 follow -- follow. They have practices.

SENATOR MARCELLINO: Okay.

DOUGLAS SAUER: But they -- again, you talk to a lot of organizations, that: You're talking about documentation, and writing up policies, and, when are we going to be able to do that?

You know, because everybody wants written policies.

And, most of them practice well, but don't necessarily have all the written documentation on what they do and how they do it.

However, I want to say, that, those boards of directors are eager to learn this stuff, and are dying for that information, and dying for assistance on how to do it right.

An extraordinary number want to do it right.

These are volunteers, and boards, that are, just, they're trying to get their organization alive, and trying to raise money at the same time.

And, they're looking -- from their perspective, they're looking more behind their back than they're looking forward to solving problems in the community.

And that's causing people not to want to serve on these boards anymore.

That's a whole other problem.

SENATOR MARCELLINO: Do State agencies that you deal with, do they ask for these documents? These policy statements?

DOUGLAS SAUER: Some of them do.

I mean, there's different accreditations, there's different licensing requirements.

I mean, it's all over the place, in terms of, it's not one State agency, Department of Health. And there's a hundred different ways that things are done by the funding stream.

And -- but some of them do ask for that. Some of them require that; some of them don't.

SENATOR MARCELLINO: Do you feel, in general, that not-for-profits are meeting the IRS requirements?

DOUGLAS SAUER: By far, yes.

SENATOR MARCELLINO: Okay.

If you know, what is the -- what would be the average administrator's pay for your association on this?

DOUGLAS SAUER: $60,000. $65,000.

SENATOR MARCELLINO: In the, sixty, sixty-five thousand dollar range?

DOUGLAS SAUER: Yeah, yeah.

MICHAEL COONEY: Okay.

Can your association members meet the 25 percent administrative cost cap?

DOUGLAS SAUER: Most of our association members would love to get 15 percent.

[Laughter.]

And I want to go back to this: That most don't get that.

So, again, we're kind of looking at it from -- as if, somehow, it's a luxury.

So, a lot of them would like it at 15 percent.

The only -- Michael mentioned the research foundation.

Research foundation gets 40 to 50 percent overhead off State dollars and federal dollars.

And -- you know, and we look at that.

I don't know how much overhead the State of New York takes out of federal dollars when it comes down to the federal -- State -- New York State agencies, and then goes out to not-for-profits.

I'll bet you the State of New York takes more than 15 percent for their overhead on that.

So, 25 percent is pretty healthy for most [unintelligible].

I mean, if you look at what -- and, again, overhead is dependent upon your sophistication in doing cost accounting.

The smaller the organization is, the more it's community-based; the less infrastructure it has to do sophisticated cost accounting.

Like, they don't allocate space, and it all just goes to overhead rather than our program; or, they take the executive director, who may be spending 30 percent of their time, or 50 percent, on program, but they'll just say, it's 100 percent. -- because they aren't sophisticated in doing it.

So some of this is going to be an accounting game. And those that can play it, that have the infrastructure, are going to be able to show it, and the smaller organizations may not.

SENATOR MARCELLINO: Thank you.

DOUGLAS SAUER: Uh-huh.

SENATOR MARCELLINO: Senator?

SENATOR SQUADRON: Thank you very much, and thank you for testifying.

And, I want to echo what Chairman Marcellino said; that -- to the extent to which you feel that all of your members are being painted with too broad a brush, to the extent to which we in government are not grateful enough for folks who work in the nonprofit sector, serving their communities every day.

I think that's an incredibly important point, as you point out, the average compensation is in the $60,000 range.

I do think -- and, then, it's an important -- a very important point.

I think the other side is true, too.

And, you know, I think, at some point you said today, concerns me a little bit, because I'm hearing that there's no problem at all.

And I think we need to acknowledge the vast, vast majority of organizations (a) are so small that this threshold would never affect them, or cut in half, (b) are doing everything they can in the most

precise, responsible way possible.

I got to tell you, though, looking at articles -- Senator Diaz raised one earlier, it's been out -- it seems to me there is a problem --

DOUGLAS SAUER: There is --

SENATOR SQUADRON: -- and there's been a problem. And there's a lot of dollars associated with that problem.

It's -- if -- absolutely, a small number of individuals, and even organizations, but, we agree there's a problem?

DOUGLAS SAUER: Oh, yeah, I totally agree.

I started that off; there a problem that needs to be eliminated.

I don't think a $199,000 cap to State investments, what you're going to buy out of a salary, does that, because, is the problem excessive compensation?

SENATOR SQUADRON: What level cap does?

DOUGLAS SAUER: Huh?

SENATOR SQUADRON: What level of cap does?

DOUGLAS SAUER: Well, it's -- we're talking about two different things.

We're talking about, what somebody gets paid versus how much the State wants to pay towards that.

There is nothing that I've seen, that says you want to go after overall salaries of nonprofits.

And it's -- so, I could still make $1.5 million, and, as long as I account, that, less $199,000 of State monies, I can still make the 1.5 million.

So, is the issue the -- is the issue:

The sticker shock from, Wow, that's a lot of money for a health-care company?

Or is the issue, is, Well, we're just limiting what we pay for it?

SENATOR SQUADRON: Well, in your view, what --

DOUGLAS SAUER: So, perhaps --

SENATOR SQUADRON: -- in your view, what's the issue?

The overall -- you would say, the overall compensation?

DOUGLAS SAUER: I think the overall is more of a problem than how much State should say -- the State should buy what it wants to buy.

SENATOR SQUADRON: So, the overall --

DOUGLAS SAUER: And [unintelligible] comes attached to that.

So I think it's less about, how much the

State is buying, because you make that decision through a procurement process, what you want to buy.

And I think the issue, from a public's perspective is, some of these salaries are just outrageous, and --

SENATOR SQUADRON: So what's a good cap on salaries, in your view?

DOUGLAS SAUER: What's a good cap at salaries?

Uhm...

I think, if -- this is my personal opinion, and, certainly, from a legal perspective, they'll say --

SENATOR MARCELLINO: We won't tell anybody.

DOUGLAS SAUER: -- [unintelligible] --

Pardon?

SENATOR MARCELLINO: We won't tell anybody.

DOUGLAS SAUER: Well, I'll tell you, if somebody's making a million dollars, I think you really got to stand back and look at it.

And to be honest with you, if somebody's making $500,000, I think you really got to step back and look at it.

I'd rather focus on that, than too broad a -- establish a whole bureaucracy that's looking at a

much more broader map.

SENATOR SQUADRON: So, in some ways, your concern with the executive order, is it gives too much flexibility?

That, it protects, sort of, the State dollar, but it doesn't actually deal with the issue --

DOUGLAS SAUER: The issue --

SENATOR SQUADRON: -- in your view?

DOUGLAS SAUER: The issue that you we have with outside establishments, it doesn't deal -- again, what's the issue that we're talking about?

But I -- I am confident that a lot of the higher-paid ones are still going to continue in their same processes, and it's just matter of getting a waiver.

There is some e-mails that went out, right up to -- the day after the executive order, out to certain executives, saying -- from some trade association, saying: Don't worry about this. You're going to get a carve-out.

It's like everything else: The strong lobby groups get carve-outs on these things; and the ones that aren't -- don't have much of a voice in the halls, don't.

So, I don't -- I wonder if it's going to

solve anything.

I think a lot of larger ones are still going to get by.

SENATOR SQUADRON: I don't want to speak for the Governor, but it seems to me, reading the executive order, that its goal is to protect State dollars.

In a time where there's not a lot of State dollars, it's to protect State dollars, and not to, sort of, overdefine a sector that, you know, as we've heard from the previous witnesses, as we're hearing from you, is so diverse, in terms of, the size of organizations, source of funding, services they provide.

So, you know, I think that the focus -- and we could talk about whether this is the one that you think is wise -- is the focus, is, not spending State dollars on wildly high compensations.

DOUGLAS SAUER: But how much money are you spending on trying to find that out?

And what's going to be the end result of what you change?

SENATOR SQUADRON: Well, certainly, a fraction of some of the high --

DOUGLAS SAUER: And who's evaluating that?

So, I'm wondering whether that's a solution that's being proposed; whether you -- really, is going to be it; because, all they got to do is, manipulate how much money's coming into my salary from the State government.

SENATOR SQUADRON: Right.

DOUGLAS SAUER: That's all you gotta do.

So, I'm going to still make -- I'm still going to be the CEO making $1.5 million.

What have you changed?

You've spent tax dollars, kind of, going after an issue that you really probably won't change.

And, it's probably the smaller ones that are gonna put up a lot of money that they don't have, trying to deal with the regulation; much less, have multiple State agencies, have waivers, and they all establish their own criteria, and they have their own influences.

And if I have an OASIS bud- -- funds, and I have OMH funds, and OMRDD funds, I got three different State agencies now I got to go through regulatory waivers that have different criteria.

I mean, it's bureaucracy.

SENATOR SQUADRON: And I -- just in the

interest of time, look, I think that the concerns you raised, especially relative to some of the smaller organization, some of the less-handsomely-paid administrators and executives, as -- you know, you have a very sympathetic hearing here.

A lot of the work that I've done in the Senate has been supporting such organizations.

We need to have a solution, though.

DOUGLAS SAUER: Uh-huh.

SENATOR SQUADRON: And I would love to hear a solution coming from your organization.

I think I might have heard, a $500,000 hard cap, rather than this formed one, which I think is one that we should, you know, seriously consider, and look at.

DOUGLAS SAUER: If you -- yeah, I --

SENATOR SQUADRON: But, again, the simple fact that there's going to be gaming;

There's going to be -- you know, that any solution, when you try to increase flexibility increases the ability to game the system, that's just life, I don't think is a reason to leave the status quo.

Because, I got to tell you, when I look at

some of the compensation levels, some of these organizations that are nonprofits in name, but, in fact, are 97 percent, 99 percent, funded by taxpayer dollars.

You know, it's funny, we have 2,500 State and City employees -- New York City and New York State employees -- who make more than 2,500 -- make more then $200,000 a year.

2,500 of them.

And, so, there's certainly a case, that, when you're doing good work, and you're doing public service, you should make money.

Of course, one of them is the golden parachute for the former coach at SUNY Binghamton.

But, even that aside, you have 2,499.

And -- the question, though, is: Why these folks should be making in the range of 200 to 500, 200 to 300, while you have folks who are, basically, essentially, State-funded, making in the millions.

DOUGLAS SAUER: And are we --

SENATOR SQUADRON: And that has to be solved, and we need a solution for that.

DOUGLAS SAUER: Are we talking about for-profits, too, in this?

Are we talking about for-profits that

contract with the State of New York?

Or, because you're a for-profit, and you can make money -- you can much, much money off the state taxpayers as you want?

Are we including those?

SENATOR MARCELLINO: Actually, the Governor's executive order was slightly vague on that.

It does reach into the for-profits. And, that is a situation that has to be looked at as well.

Do we want to or not? That's another question.

The other point, though, here, is, the tax dollars, and how it's being spent.

And I think that's where we want to focus ourselves on, on that; and whether or not the Governor's executive order goes, I think, a little bit further than he might want it to.

That's something we have to look at.

DOUGLAS SAUER: Let me --

SENATOR SQUADRON: And, again, we -- and, just -- and I'm gonna just -- I've taken up too much time.

But, again, I do appreciate what I heard might have been a proposal, to just have the hard

$500,000 cap.

That's a different direction than the Governor went, but, that's what this hearing is for.

We have a problem. We all need to agree we need a solution. And, there are probably different ways to make that happen.

DOUGLAS SAUER: Just --

SENATOR SQUADRON: Thank you very much.

DOUGLAS SAUER: Yeah, I would just like to make one comment about the for-profit, because that needs to be considered.

I know this Senate has passed, and it didn't get signed, L3C legislation: Social-responsible for-profit corporations.

And, there's a whole talk about entrepreneurs, and all that, and diverting money from charitable organizations over these for-profits that do social re- -- that don't have to report their compensation, because making money means they can be more successful.

So, if we look at this, I think, if it's about take State -- State tax dollars going towards buying, what, and is it worth it? -- it doesn't matter if it's for-profit or nonprofit.

If that's what this is about.

SENATOR SQUADRON: And just as a note: That "benefit corporation" bill was my bill, and there's no tax benefit. So, those corporations are paying taxes, which --

DOUGLAS SAUER: Well, they don't have to report their compensation.

SENATOR SQUADRON: But, yes -- but they pay taxes.

DOUGLAS SAUER: Yeah, but they do not report compensation.

SENATOR SQUADRON: That's correct.

DOUGLAS SAUER: And we're talking about compensation.

SENATOR MARCELLINO: Senator Zeldin?

SENATOR ZELDIN: Well, two points.

First of all, great presentation.

Thanks for being here.

And I would agree, that you should -- should have a seat at the table, especially representing so many small- and medium-sized not-for-profits.

So, I'm glad Senator Marcellino invited you to be here to testify.

It sounded like you have a lot of very specific ideas of the way that the State can be more friendly towards all those not-for-profits doing the

right thing.

My office happens to be 802, the LOB. And I -- you know, we all have offices that probably would love to see, specifically, some of your thoughts, because, you started getting into a lot of them. For the sake only time, can't get into all of them with the sufficient amount of details.

So, my first is just a request to please provide me with the details of what you're referring to.

The second part, the -- there is a problem.

And, you know, Senator Squadron, really, you know, he just hit on it, really, that that was -- really, that was where I was going with it as well.

Just because you have so many members that are doing the right thing, I -- what happened over the summer, as we were just watching, just every single day, all of these seven-figure abuse stories coming out, the legis- -- we have to do something.

DOUGLAS SAUER: Thank you.

SENATOR ZELDIN: I mean, you hear -- I mean, one of the stories, you know, hundreds of millions of dollars of one, you know, overbilling, Medicaid.

"Hundreds of millions of dollars."

So, it's -- it's a problem.

And I think that, maybe, even your members should want us to tackle that larger problem, because it would help make the public discourse one that would be more beneficial to the entire industry.

DOUGLAS SAUER: I totally agree.

SENATOR MARCELLINO: Thank you.

Thank you, Doug. We'll be talking.

DOUGLAS SAUER: Thank you.

[Senator Diaz leaves the hearing room.]

SENATOR MARCELLINO: The next speaker is James Lytle, who is a partner in Manatt Phelps & Phillips, LLP, who will be testifying on behalf of:

The Association for Community Living;

Black Agency Executives;

Catholic Charities of the Archdiocese of New York;

Catholic Charities Neighborhood Services, Diocese of Brooklyn and Queens;

Coalition of Behavioral Health Agencies;

And, several others, including UJA Federation of New York, just to keep it balanced.

JAMES LYTLE: Fair enough.

Thank you very much, Senator Marcellino, and members of the Committee.

I do appreciate the opportunity to testify today on behalf of what's, actually, 17 associations and coalitions of not-for-profit entities.

And I can understand why you spared all of us the entire list.

These organizations represent hundreds of not-for-profit organizations that contract with New York State and provide essential services.

We, obviously, appreciate why we're here.

And, the concerns that have been raised over these issues, and believe that there are steps that could be taken to address the concerns that have been raised.

We do believe, however, that even well-intentioned proposals to address these issues could have some unintended consequences, and make it very difficult for legitimate not-for-profit organizations to recruit the leadership that they need, to meet their mission, and to meet the purposes for which the State's contracted with them.

We -- I really have just four objectives.

And thanks to, both, the passion that Mr. Sauer offered and the expertise that Mr. Cooney offered, I can narrow down my points to the things that I think I can really emphasize.

The first is, really, to emphasize the role that the not-for-profit sector plays in New York, at least briefly.

Not-for-profit entities are a significant part of this state's economy: Provide employment with a million New Yorkers; provide the lion's share of health and mental health and other human services to all New Yorkers; and, are irreplaceable parts of the safety net that we provide for our most vulnerable citizens.

There are tens of thousands, obviously, of not-for-profits in the state, many of whom have total revenues less than $199,000, and are, obviously, not going to be seriously affected by the cap.

There are others that receive over a billion dollars in State support, and are, obviously, in a different situation with respect to the level of complexity of the operations that they're entrusted with, with handling.

22,000 active State contracts exist with not-for-profits, according to the State Comptroller's Office.

And I think, if you've seen one of those 22,000 State contracts, you've probably seen one of

those 22,000 State contracts. They run the gamut of services, from meals for the elderly, housing for the homeless. Everything, from prenatal care, to hospice care, community residences for disabled individuals, daycare services.

Over 1.2 million people in New York are employed in not-for-profit organizations.

Of the top twenty employers in New York, nine are not-for-profit; four of the number within the top ten of employees [sic].

And, on Long Island alone, for Senator Zeldin and Senator Marcellino, 11 percent of all employment on Long Island, public and private, are with -- are in not-for-profit organization.

Overall payroll on Long Island, according to the Long Island Association for this sector, is 6.4 billion. And they generate, in addition, in other jobs in the for-profit sector, an additional 132,000 -- I'm sorry -- another 88,000 jobs in the for-profit sector.

The economic contributions in the not-for-profit sector are, obviously, not why they're here.

They're here to perform essential public services at the express urging of New York State.

They are the private part of the public-private partnership that is often talked about. And they've been contracted by the State because the State's come to the conclusion that they can do it more cost-effectively, and at, generally, higher quality than the State can provide these services itself.

Just like every other sector of the economy, the not-for-profit sector's also been hit by the recession. Deep cuts in governmental support, as Doug has indicated, compounded by reductions in charitable giving, have put a lot of not-for-profit organizations in significant financial distress.

Mr. Cooney made my second point, which is, that not-for-profit corporations are already subject to very close and careful scrutiny, not only by the Attorney General's Office, but by the Internal Revenue Service.

And, I don't think I need to reiterate those requirements, except to say, that the most sensible approach, in our judgment, is to build on what exists, in terms of the existing regulatory structure, and strengthen it, to make it even clearer that not-for-profit boards ought to be held accountable for the decisions they make, with

respect to executive compensation, administrative costs, and the balance of issues that they have to address.

I should point out, that on the administrative-cost side in particular, as I think Mr. Sauer mentioned, just about every State agency has an approach to try to limit the amount it pays for overhead. It varies all over the lot, and it does -- it makes sense to vary, to some degree, because the nature of the services being provided are different.

Overhead in one agency is probably not going to be comparable to another, dependent on the nature of the services that are being provided.

So, turning to the proposals that the Governor advanced through the budget and through the executive order, what they would do is subject every entity that contracts with the State to a "one size fits all" limitation, both on executive compensation and on administrative expense, that don't take into account the unique nature of the contracting entities, would seriously damage, we believe, the recruitment of qualified executive leadership in the sector, and would, we think, be ultimately unworkable, and probably unfair responses

to a problem that I think, as the other witnesses have indicated, prob- -- and as you have conceded, probably requires more of a surgical-laser approach than a sledgehammer.

Again, we know why we're here: abuses have occurred.

No evidence has been advanced, by anyone so far, that suggests that these abuses are either widespread or particularly unpunished when they have occurred.

A single statewide cap on administrative expenses and executive compensation, we don't think is the answer.

The "one size fits all" approach, basically, to address the compensation and administrative spending practice of tens of thousands of not-for-profit organizations, really won't effectively curb excessive compensation by a handful of offending entities, and will do harm to an already fragile not-for-profit sector.

Rather than focusing limited enforcement and regulatory resources on all of the entities that contract with New York, I think, if a proposals could be developed that would target the abusers -- those individuals, those organizations -- that have

clearly exceeded the standards that have already existed in law for a decade or more, and would hold those organizations under account.

The problems with the proposals that are before the legislature, and contained in the executive order, are, among others:

They fail to recognize the vast disparities in the contracting entities, and very significant variations among them, including, their size, the complexity, their location, where costs obviously vary, and, the nature of the services that they render;

They ignore the specialized expertise and experience that may be required to lead those organizations.

It's been mentioned, for example, on the behavioral-health world, that there have been allegations of excessive compensation, some of them justified.

But, you have a situation, where you're hiring a child psychiatrist to oversee an important program, one has to take into account the -- what the market is for persons with those sorts of specialized expertise, you would deprive not-for-profit organizations of the ability to

compete for the best executive leadership.

Maybe more than anything else, it's our view that it's -- the proposal, as advanced, again, well-intentioned and courageous effort to put down a marker on this issue, is, ultimately, unworkable.

If it means, as you were discussing, Senator Squadron, that this is a hard cap on not-for-profit corporation, or, if were modified to be such, it would almost surely, first of all, be subject to a challenge by one or more of the larger not-for-profits -- universities, health-care systems, et cetera -- that would contend that they may have, first of all, contractual obligations to their executive leadership. But most importantly, they would argue that they're using other resources to supplement these salaries that may be beyond the State's ability to limit.

So, if -- if even the largest not-for-profits were then subject to a hard cap on compensation, you would almost certainly result in a host of waivers and exceptions, implemented by the various State agencies, that would question whether this proposal, in fact, is fair and even-handed in its approach.

On the other hand, if it only affects those organizations that receive, all, or most, of their

money from State resources, it would disproportionately impact on those organizations that primarily serve the most disadvantaged New Yorkers; and as a result, have to rely more on State support than anything else.

So, if, on the one hand, the for-profit and not-for-profit entities that have a lot of other revenues and can supplement compensation, can effectively continue to exceed the compensation cap, and not worry about the administrative-cost limitation, you would be left with a proposal that treats one set of organizations one way; other organizations that have to rely more on State resources, differently.

And, I don't think any proposal that particularly targets the organizations that serve the most disadvantaged New Yorkers should be entertained.

One of the dilemmas of this, it seems to me, is that it goes counter to some other important State policies as we try to aggregate organizations; whether they're school districts, State agencies, or not-for-profit organizations, to make them more cost-effective, and more efficient in providing services.

I know, I'm currently representing a number of entities in this community, and elsewhere, that are merging, to form larger, ultimately, more efficient, cost-effective organizations that serve the public interest.

It is hard to imagine, that if you have two organizations, each of which, under this proposal, can properly pay their executives $199,000; or, say, you have three or four such organizations that decide to merge, to become more cost-effective, that you're gonna pay the executive, at the end of the day, of this merged organization, the same amount, not withstanding the increase in complexity, and the increased responsibilities that that larger organization would have to fulfill.

As I noted, there are a multitude of already existing requirements that try to limit overhead costs and administrative costs, because everyone agrees that getting direct services to the people who need them, Senator Diaz noted in his comments earlier, is the key.

The problem is, that by taking a -- an across the board approach about what that level of administrative expense should be, you ignore very, very different circumstances in different agencies.

I was told, for example, that, for people who provide residential services for children with serious emotional disturbances, heat and food are included within the calculation of the administrative expenses.

It -- other organi- -- other State agencies define "administrative expenses" in different ways.

To then have, across the board, the administrative expenses have to equal or be less than some threshold is just simply not going to work.

There's a lot that, obviously, remains to be defined from the executive order and the legislation.

I understood, from discussions with the members of the Executive Chamber, that maybe benchmarks will be used, to try to set cat- -- set salaries in different kinds of organizations, to take into account the complexity of this task, and the fact that some organizations, as I say, may receive $50,000 in State support, and others receive in excess of a billion dollars of State support.

The problem is, it's hard to imagine the bureaucracy that will have to be established to make all of the benchmarks for all of the different kinds

of entities that are being funded out there, to update them, presumably, from time to time.

It seems like an overwhelmingly complicated task, and not something, frankly, that government is probably very good at.

Two examples of how government seems to be --

SENATOR MARCELLINO: We're very good at bureaucracy.

[Laughter.]

JAMES LYTLE: Well, not to make a point that's close to home, but, the legislature has struggled, for example, with how to deal with judicial compensation;

And, has struggled how to compensate its own members.

And I don't think either of those examples demonstrate that the State typically does a very good job of making compensation decisions that are fair, and that recognize the value of people's services.

So, what do you do instead of all of this?

Instead of injecting some sort of bureaucratic approach to try to set up salaries that range the limit from the size and complexity of these various organizations, I think there's a

better way to make sure that not-for-profit boards of directors understand what their obligations are, and are held to them, along the lines that Mr. Cooney also suggested.

If we take the IRS guidelines, and enshrine them in the not-for-profit corporation law, and make them even clearer, to the extent they need to be, so that compensation policies have to be adopted across the board by not-for-profit entities, and they have to be prepared to defend the compensation decisions they make, I think we would go a long way to improving the current situation.

And, second: Authorize the attorney general to investigate and enforce those requirements.

It's the Attorney General's Office that's been given this responsibility in New York State, to oversee the charities. The Charities Bureau has been aggressive in doing so.

If a not-for-profit refuses to comply, and doesn't meet -- doesn't -- can't demonstrate that it meets these standards, the contract with that not-for-profit could be terminated, and the board of that organization could be held accountable.

It may be necessary to provide additional resources to the Attorney General's Office to

undertake this task. And I think efforts could be made to identify those resources through reasonable fees on the not-for-profit sector, if necessary.

And, finally: Require State agencies to adopt reasonable administrative-costs limitations, as, frankly, most of them already have, but make sure that they meet the State's need, to make sure that dollars end up at the people with services to the people who require them.

It might even be worth considering -- I hate to suggest yet another commission to address an issue -- but, the -- and, perhaps, one could build on the existing task force, Senator, that you serve on -- to study this issue, and give it the care and consideration that it requires.

It doesn't need to take a very long time to come to those conclusions, but some serious look at the best way to approach these issues, I think is necessary.

As you said, Senator, taking a broad brush towards this industry, and coming up with an across-the-board solution, would be like a characterizing the legislature in an unfair way for the misdeeds of a very small minority of its members.

I -- as far as we know, the data that was submitted to the task force has still not been analyzed. There's been no report from the task force.

At least, we should get the benefit of that that analysis and that guidance before we proceed to adopt some sweeping new rules, that I think will do more harm to the prudent, compliant, not-for-profit organizations, and not sufficiently target the actual wrongdoers.

So, I appreciate your consideration of my testimony, and the hearing today, and I certainly would be happy to answer any questions.

SENATOR MARCELLINO: Thank you very much.

It's my understanding, with the task force, they're still in receiving data.

One of things I think that has slowed that down is the volume, and the extent of the questionnaire, which, as you -- as has been pointed out before, was quite expensive.

JAMES LYTLE: Yes.

SENATOR MARCELLINO: The Governor, when he was AG, recommended, and it became law, a consolidation law.

We recognize there are 140,000 not-for-profit

entities.

The Governor points out, when he was AG, that there are, literally, thousands of taxing entities in this State, and felt that there were, perhaps, too many, and, it was worth taking a hard look and consolidating them, and providing a procedural mechanism for consolidation.

Hence this, the law.

For record, I voted against that law.

Are there too many not-for-profit organizations out there?

Should there be consolidation within the fields?

JAMES LYTLE: I think it is incumbent on every not-for-profit organization to ask itself that question: Are there ways in which we could perform the mission that we're asked to perform in a way that would be more cost-effective, more efficient, more powerful, in terms of its ultimate impact, if we linked up with some other organization and did it?

I don't know with the right number is.

I suspect that that is called for.

And the reality is, that's exactly what the not-for-profit world has been doing. There has been

a substantial amount of consolidation.

And, again, I think it ultimately runs in the wrong direction of the -- this executive order runs in the wrong direction; will actually discourage that from happening.

But, I do think there are some efficiencies.

And I -- as I say, I'm in midst of helping four different organizations, in two different transactions, bring their work together, here in this community.

And, it's happening all across the state.

SENATOR MARCELLINO: I mentioned before, the idea of making administrative costs, somehow defining them, and then making them a percentage, or capping them at a percentage, of the overall budget.

If you're going to use tax dollars, making them a percentage of the overall budget.

What do you think about that?

JAMES LYTLE: Well, I think, as -- as Mr. Cooney said, I think that is one of the factors that could be taken into account.

If, actually, I think, as he suggested, certainly, I would make the point that that could result -- if it was used for compensation purposes; that compensation should be no more than a certain

percentage, it could result in very excessive compensation in some of these large organizations, and insufficient compensation in some of the smaller ones.

But, it is a factor. It, certainly -- there is, among the different things that should be considered, it seems to me, a legitimate factor.

The complicating fact -- or, the complicating nature of this issue, is that there's a lot of other issues that have to be consider as well.

Perhaps most significantly: What does it take to recruit someone, looking at the for-profit and not-for-profit world, to lead an organization of the sort that we're discussing? -- whether it's a university; a comp -- comprehensive health system that may extend over an entire region, have a number of hospitals as part of it; or some other equally complex organization.

And I think that is the other missing element to take into account, which is what the IRS guidelines are intended to do.

So, what is it that it takes to hire a qualified person to perform these responsibilities, taking into account, if there's some specific professional licensure, or other requirements that

the job, essentially, entails?

I take the risk of responding on behalf of an organization that hasn't asked me to, that was the subject of the story that Mr. Diaz -- that Senator Diaz mentioned in today's "New York Post."

The organization receives in excess -- I think it is -- it's certainly in excess of a billion dollars, it may be more than a billion dollars, to, basically, provide health-care services to Medicaid recipients all across New York State.

By every evidence, over the last ten years or so, the Department of Health has been convinced that this organization, and organizations like it, have done that in a way that's saved the State significant amounts of money, and has provided a better quality of health care for the people who receive those benefits.

If you weren't going to hire that organization, and that CEO, to run the -- to provide those benefits, about -- one of the few other options the State would have, would be the contract with a commercial, maybe a national publicly traded health insurance company to do the same thing; some of whom are also in the same business, and they pay their executives a lot more than he's being paid.

And, now, it's very difficult, under these circumstances, and given what Senator Diaz mentioned, to feel comfortable with levels of compensation that are over a certain level.

But the reality is, you could not recruit somebody to have a job like that.

No similar health plan in the country pays $199,000 to someone to perform that service.

SENATOR MARCELLINO: Go ahead.

SENATOR SQUADRON: Thank you very much for your thoughtful testimony, and I do have to say, that some of, I think, the most important organizations in the state, you're here on behalf of today.

So, I appreciate that.

And as I said a couple of times today, you know, I think, that as you look at this list, our state would be bereft without them.

So, it's an important point.

I also appreciate that you did proposal alternatives here.

It sounds like the hard-cap proposal that came up in the last witness's testimony, or answering questions, was not one that you think makes a lot of sense, at whatever level it's at.

Is that fair to say?

JAMES LYTLE: I don't think so, Senator.

SENATOR SQUADRON: So here's the challenge, though, and I think you lay it out well:

I think you lay out some of the real challenges for the hard cap;

I think you lay out some of the real challenges with, sort of, the structure of the current executive order;

And you then lay out a third option.

I think one of the problems with the third option, is, as you point out in your testimony, there are 27,000 of these organizations in the state.

You know, the attorney general, we've seen over the last couple of administrations, not the current one, extraordinarily effective, but with really limited resources.

And as we know, the Charities Bureau really is empowered to deal with some of these IRS regulations, if they so chose; or to deal with executive compensation during a number of other provisions of State law that allowed them to oversee nonprofits.

So, the issue here isn't really changing

State law, to give the attorney general power they don't have.

The problem is, none -- so we're going to have three solutions on the table, none of which get at the problem here.

You also -- and I appreciate this -- acknowledge there is a problem.

So, it's a little bit of a pickle.

JAMES LYTLE: I agree.

And I don't -- and I think, if there's one message I'm attempting to leave, is that this issue is a lot more complicated than -- than maybe -- that some of the conversations in the news media would suggest.

But I think the -- and the notion that we give, both, resources, and some sort of an enforcement mechanism to the Attorney General's Office, to get involved in overseeing this in a more effective way, is worth pursuing.

I'm not -- I leave it to the Attorney General's Office to give us a sense of what that would take.

It's worth noting, that the attorney general already plays have very important role in approving State contracts in New York. It's something which

the not-for-profit community sometimes complains about, because of the delays that are encountered in the -- along the way through the various approvals, but, they have that ability.

If issues are raised, and the -- and, so, they have that ability.

The information about the compensation levels of every executive in the not-for-profit sector is, as we've already heard, easily available.

So, if there is a concern about that level of compensation, when that contract arrives at the attorney general's desk, it doesn't strike me as unreasonable to imagine a situation where the attorney general then asked that organization to provide it with the information -- to provide the Office the information that supports that compensation, determination that demonstrates that the appropriate procedure was followed.

And, the attorney general doesn't approve the contract if he or she isn't satisfied with the answers to those questions.

SENATOR SQUADRON: Right, and I think we're talking about, potentially, emptying the ocean with a bucket, is one of the concerns; right?

JAMES LYTLE: Uh-huh.

SENATOR SQUADRON: And, again, you know, when you look at the compensation, just of State employees, whether the presidents of a -- of public hospitals, or the major public authorities, or real experts who work either in the SUNY system, or the CUNY system, or in medical education, you know, you certainly do see that even the State has compensations over the 199 level.

You don't see -- you see some very, very high-quality people working for the State, and you don't see these levels that are so extraordinarily high.

And, again, as I pointed out earlier, some of these nonprofits you're talking about, being funded, not, you know, at a significant level with State dollars, but, essentially, every dollar coming from the State.

And, just so I understand: It's your view that, for these non-profits that are paying well above what any State employee makes, including the very high-level State employees that run very complex, large organizations, or entities, and with a great deal of expertise, that what they're doing is so different, and the -- the competitive environment for talent is so different, than what we

see at the State, that folks should be making, six, seven, eight times what the same State employee would be making, still being funded, you know, at least, 98 percent with State dollars? 97 percent with State dollars?

JAMES LYTLE: I think it's very difficult to draw clear comparisons between these roles.

As someone who spent much of my prior life in both the public sector and the not-for-profit sector, there is a degree to which people assume there is a sacrifice in doing so, as you all have, obviously, also made that commitment.

And, it is not unreasonable to therefore assume that people in either the public or not-for-profit sector are not going be making the same amount that they might make in other sectors.

I -- it's very hard, I think, to compare this position to that position.

I think each compensation decision should be very carefully scrutinized, but, on the merits of that particular position.

And with, then, one of the questions being -- maybe not only one -- but one of the questions being asked, is: What does it take in the broader marketplace, for people who have the skills

necessary to do that job, to hire someone for that role?

And, in the not-for-profit sector, if you're going make a determination to pay someone a high and competitive salary to do that, it's under the assumption that, somehow, they're bringing such competent leadership to the organization that it will pay dividends to the organization.

And, you know, in the classic case of the college president who ends up raising more money than they're possibly with being paid, or, building an institution that provides the kind of education and stature that the trustees have asked this person to do, is -- you know, in some general sense, is worth the money that they're being paid for.

SENATOR SQUADRON: And the "exception" provision here doesn't answer that?

JAMES LYTLE: Well, I think I worry about having a situation where, 199, or some other number, is the norm; and, then, everyone lines up with their request for why they deserve something more than that.

The risk is, again, not withstanding the best intentions of the folks who have to make those decisions, is that the best connected, most powerful

interests will end up getting the waiver granted; that organizations that may not be quite as well connected, won't. That there won't be clear criteria about how those determinations are being made.

And, then, it just brings the State in a position, I think, of micromanaging a situation which, again, for the most part, we respectfully would submit, isn't as broken as these proposals would suggest.

SENATOR SQUADRON: Right; and, again, just using the State payroll, and -- included in the associated entities, and the City's payroll, as an example: You have 2,500 people making more than this threshold, in effect; you have 38 people making over half a million dollars. -- in 2010.

So, it just seems to me -- and, again, I would urge you, and everything we've heard here today -- that, having a cap that has certain exceptions that are pretty tightly defined, makes sense here.

And, the reluctance to do it, I fear, is about what are a very small number of organizations that are paying well above what that cap would be, or don't have a hard justification for it.

And I understand that -- you know, that, sometimes, the role is to -- is to argue for the way things are. And, the largest organizations, obviously, have a role there.

But, it -- I really appreciate what you've said, in terms of the concerns about recruiting talent; about the ability of certain organizations to overcome this, and not others.

I don't think that this idea that, suddenly, the Charities Bureau's going to be able to look at every piece of executive compensation, in detail, without specific guidelines.

I don't think that quite passes the "red face" test, although I do appreciate that it was a proposal presented.

I think that what we see here, is, the Governor's executive order sets a threshold, has an "exception" provision.

What I've heard from you, and from others today, is: Perhaps that threshold should be a little bit higher, perhaps that "exception" provision should be more clearly defined, but, that that framework, actually, could make some sense.

So, I really appreciate your adding to the record on this, and helping us really understand

this issue.

Thank you.

JAMES LYTLE: Well, just to respond, briefly: I don't believe a cap, at any level, ultimately is workable.

Not because it doesn't -- it would certainly satisfy the concerns raised about certain organizations, but I don't think, at the end of the day, it works, that government is in a position to be monitoring this question on a year-by-year basis, in an effective and thoughtful way.

And that, ultimately, it actually, neither, would provide, I think, the benefit that we're seeking, or target the areas that there is the greatest concern.

I don't think it would require -- the good news is, because there aren't very many not-for-profit organizations that have broken their trust, I don't think the Charities Bureau would be overtaxed in performing that responsibility.

And, there would be a -- but I do agree with you, that they should -- there ought to be very clear guidelines about how that ought to be done, how compensation decisions are made. Make it easier for both the not-for-profit world and the enforcers

to hold people accountable for making those decisions properly.

SENATOR MARCELLINO: Thank you.

Senator Zeldin.

SENATOR ZELDIN: Mr. Lytle, you were referring to the one ordinance -- one organization that gets about a billion dollars in State support.

And one of the issues with having a -- possibly, a for-profit handle that, is that their executives would get paid even more.

I have a very specific question that I would, just from the sake that you would even raise the point, you might be able to answer.

Is it possible that -- that the State, by using a for-profit in that particular situation, despite the fact that they're paying an executive more, that for-profit may do it -- may do the service more efficiently so there would be a lower cost to the State?

JAMES LYTLE: It's a very specific question; and I --

SENATOR ZELDIN: I understand.

I was referring to that one example you brought up.

JAMES LYTLE: Right.

I -- you know, the evidence is -- I am familiar with the field that we're talking about here, in terms of, which is, essentially, managed-care organizations that have accepted, and operated programs on behalf of the State for Medicaid beneficiaries.

I think the evidence is, that the not-for-profit entities that are performing those functions have --

And I should say, by -- in the interest of full disclosure, and not for the purposes of this testimony, but we do represent a group of those not-for-profit plans, for other purposes.

-- that they've actually demonstrated that they have done it more cost-effectively and at higher quality than their colleagues in -- on the for-profit side.

But that -- again, it's -- I think the reality is, that there is a -- what is sort of also ironic about the Governor's direction, I think --

And it gets to Senator Marcellino's point, about the need to consolidate, generally.

-- the Governor's also been moving, very dramatically, in the direction of having every Medicaid recipient enrolled in these plans.

That's the direction of the Governor's Medicaid Redesign Team, over a number of years.

So, you're going to have larger and larger organizations out there that are going to accept larger and larger amounts of the State Medicaid dollar to perform these services, and, bear enormous responsibility, to make sure that that's -- those care and services are provided appropriately.

SENATOR ZELDIN: And just so I understand your -- the answer to the question:

Are you stating, that, overall, that not-for-profit companies going to be handling the service more efficiently at lower cost to the State than a for-profit would?

Or, are you saying that there are specific components that they do more efficiently?

JAMES LYTLE: I think it's hard to generalize, to be honest with you, in terms of an answer to that question.

I think it's been demonstrated, that, and I think the State, for good reason, has felt comfortable, sometimes contracting with not-for-profit mission-driven organizations, even to perform things that a for-profit organization is qualified, and often provides, and quite properly.

But, sometimes, I think the State properly decides that having a mission-driven, often provider-sponsored, not-for-profit organization to perform those services is a better judgment call, in the long run, to make sure that the patients' needs are being adequately met.

But I -- I don't know that it's possible to compare, across the board, whether not-for-profit organizations are more or less efficient in doing that than for-profits.

I think they've shown themselves to be quite efficient in doing so.

I'm just not sure what the -- you know, what the comparison would ultimately tell us.

SENATOR ZELDIN: Thank you.

SENATOR MARCELLINO: Thank you very much, Mr. Lytle.

JAMES LYTLE: Thank you.

SENATOR MARCELLINO: Appreciate your time; appreciate you coming down.

Our next, and final, speaker will be, Jayne Cammisa, who is a registered nurse.

JAYNE CAMMISA: Hello.

SENATOR MARCELLINO: Good afternoon.

JAYNE CAMMISA: My name is Jayne Cammisa, and

I represent --

SENATOR MARCELLINO: Could you please move the microphone closer to you so that everybody in the back can hear you.

JAYNE CAMMISA: Sure.

My name is Jayne Cammisa, and I represent a different group.

I represent the employees of the not-for-profits; and I have a very different perspective than the eloquent speakers that spoke before me.

I am a registered nurse at Westchester Medical Center, and I am also a proud member of the New York State Nurses Association.

And I really thank you for allowing me this opportunity to speak in regards to the exorbitant executive salaries in some of the New York State hospitals and nursing homes.

According to the 2009 financial reports:

Westchester Medical Center Chief Executive Officer Michael Israel was paid $1.2 million;

Our chief operating officer, Gary Brudnikie, was paid $738,000;

While 36 other executives were paid between 128,000 and 530,000 dollars.

Wouldn't some of this money be better spent on cultivating a stable RN workforce to provide quality patient care; the very patients, the very members, that all these nonprofits serve?

In the middle of our contract negotiations this past October, the Nursing Association received notice that the facility would be eliminating 250 RN positions. An estimated 139 of these positions were nurses who work at the bedside.

I work at the bedside. I've worked at the bedside for 25 years.

Other planned layoffs will affect direct-care providers, such as, nurse practitioners, clinicians, specialists, and physicians, that provide support, such as, manager, supervisors, coordinators, and the entire education department of our facility.

We are a Level I Trauma teaching hospital.

This is a staggering 19 percent cut to the direct-care nursing workforce at Westchester Medical Center, and it is simply too much for the remaining staff to bear.

RNs are already reporting that they're working short-staffed, and many have been doing so since the layoffs at the medical center in 2003 and 2004.

Staffing levels are an issue of concern because studies have linked poor staffing with higher incidents of adverse patient outcomes.

My colleagues and I cannot comprehend why those at the bedside are being sacrificed while some executives continue to line their pockets at taxpayer expense.

The executives of our facilities need to do the right thing.

The executives of every nonprofit health-care organization have to do the right thing.

What kind of message does this send, not only to the whole staff, but to the patients we serve, and the community as a whole.

Even in current contract negotiation, Westchester Medical Center management is aggressively seeking cuts to nurses' benefits and wages, while refusing to commit to severe cuts in management salaries and benefits, or to discuss millions spent on outside contracts.

Our negotiating committee, which I serve on, offered $9 million in various givebacks to our employer, only to be told we didn't work hard enough on our proposal.

Westchester Medical Center faces the same

dilemma as many health-care facilities in New York State; yet, others haven't made cuts to this magnitude.

Westchester Medical Center has the highest case-mix index in the country, and is the only burn unit between New York City and the Canadian Border.

It is also the only Level I Trauma Center -- Sorry.

-- between New York City and Albany, supporting patients from seven counties.

Having committed high-quality, high-credible nurses at the bedside is vital to the survival of the patients, and to this important institution.

Layoffs at my facility will severely impact the safety and delivery of quality care, not only in Westchester, but the entire Hudson Valley.

Recently, Governor Cuomo said the not-for-profits that provide services to the poor and needy, which we do, must work to prevent public funds from being diverted to excessive compensation and unnecessary administrative costs.

The Governor issued an executive order that would cap both executive compensation and administrative costs by paid by the State to nonprofits and for-profit service providers.

My colleagues and I at Westchester Medical Center and the New York State Nurses Association applaud the Governor, and this Committee, for working to keep nonprofit executives accountable for their salaries, and better align themselves for the not-for-profit missions.

I really thank you for letting me speak.

SENATOR MARCELLINO: We thank you for coming, and we thank you for the message that you're delivering.

There are a number of proposals out there to cap executive salaries at hospitals.

Is there any particular one that your association supports?

JAYNE CAMMISA: Is there one that we support?

Christine LaPerche is here, from the thing.

I support the nurses that do the work.

I support anything that keeps with the mission statement.

CHRISTINE LA PERCHE: Basically, we support the present --

SENATOR MARCELLINO: Can you move the microphone closer to you.

CHRISTINE LA PERCHE: What we're saying is, there needs to be a start, somewhere; and this cap

is the start.

So, we're in support of there being a cap.

Can we speak to the capped amount?

I think the 199 is a good beginning.

SENATOR MARCELLINO: I have -- what you're saying about the administrative salaries, I have a bill that we're currently looking at, towards education, dealing with capping administrative costs as a percentage of the overall school district's budget.

Same question I've asked of some of the other speakers: How do you feel about that, with respect to not-for-profits?

Administrative costs; instead of capping an individual's salary per se, but capping overall administrative costs as a percentage of your budget, that the State could live?

How about that?

JAYNE CAMMISA: I think we'd support that.

CHRISTINE LA PERCHE: We agree.

SENATOR MARCELLINO: Thank you very much.

Senator?

SENATOR SQUADRON: Thank you very much for being here, and for your testimony and perspective.

Just, do you know the starting salary for a

nurse at Westchester Medical Center?

JAYNE CAMMISA: $60,000.

SENATOR SQUADRON: Sixty.

And do you know the average?

JAYNE CAMMISA: If you're there for 25 years, you average about $100,000. But, you have to give 25 years to the front line to get to that cap.

SENATOR SQUADRON: And --

SENATOR MARCELLINO: Is that a four-year degree or a two-year degree, the starting salary?

JAYNE CAMMISA: It could be either.

But, our institution is, majorily [sic], they're hiring a four-year degree, bachelor of nurses.

SENATOR SQUADRON: Right, so somewhere between -- 60,000, and after 25 years of service, you may break into six figures at the very end of your career?

JAYNE CAMMISA: Yes, uh-huh, but that's after 25 years. Not after --

Mr. Israel makes 1.2 million after four years.

SENATOR SQUADRON: And I -- I'm aware of this, and, certainly, very grateful with what nurses do, but, I just want to sure, for people who are

thinking about it every day, we still have a nursing shortage in the state, and in this country; right?

JAYNE CAMMISA: I believe there still is a nursing shortage, but, they just laid off 139 experienced nurses, that are out of a job.

Nursing students, I precept, and I mentor, students from the area colleges. They can't get a job.

They can't get a job. They have to wait for someone to retire.

It's harder and harder for nurses to enter the field of nursing.

SENATOR SQUADRON: Great, so, we have a situation, where we have the salary level, we have sort of a national nursing shortage, and, we have well-trained folks who are currently laid off and don't have a job --

JAYNE CAMMISA: Yes.

SENATOR SQUADRON: -- at the same time.

I really appreciate this perspective, and I think it helps bring everyone down to earth a little bit, about what we're really talking about here.

And, of course, just the final question:

I know that you work at Westchester Medical Center, and stuff, but, you do pay taxes; right?

We're talking about --

JAYNE CAMMISA: I am --

SENATOR SQUADRON: -- your tax dollars funding your boss?

JAYNE CAMMISA: I am -- have been a Westchester County resident for my whole married life: 23 years. And, before that, Putnam.

I've lived in New York State my entire life.

I pay my taxes.

I -- I speak for the taxpayers: I think this is outrageous, how much money they make.

SENATOR SQUADRON: Well, I thank you for your perspective, both, as a front-line worker at a New York nonprofit, and also as a taxpayer.

Thank you very much.

SENATOR ZELDIN: Thank you. Great testimony.

SENATOR MARCELLINO: Thank you very much, ladies.

That closes the Committee hearing.

The Committee will review all testimony that was given today, and a written report will be issued shortly, on the issue of the State to reform compensation oversight.

And, we want to thank the Senators for attending;

The camera crew for working here, and the technical people;

The Committee staff, Beth Keliher [ph.] and Rob Parker.

And, once again, for all of those who attended, and those who participated with testimony, written, and all.

Thank you.

Meeting adjourned.

[Whereupon, at 1:09 p.m., the public hearing, held before the New York State Senate Standing Committee on Investigations and Government Operations, concluded.]

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