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

JOINT LEGISLATIVE HEARING

In the Matter of the
2020-2021 EXECUTIVE BUDGET ON
WORKFORCE DEVELOPMENT

Hearing Room B
Legislative Office Building
Albany, New York

February 5, 2020
9:32 a.m.

PRESIDING:

Senator Liz Krueger
Chair, Senate Finance Committee

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

PRESENT:

Senator James L. Seward
Senate Finance Committee (RM)

Assemblyman Edward P. Ra
Assembly Ways & Means Committee (RM)

Senator Jessica Ramos
Chair, Senate Committee on Labor

Assemblyman Marcos A. Crespo
Chair, Assembly Committee on Labor

Senator Andrew Gounardes
Chair, Senate Committee on Civil Service
and Pensions

2020-2021 Executive Budget
Workforce Development
2-5-20

PRESENT: (Continued)

Assemblyman Peter J. Abbate, Jr.
Chair, Assembly Committee on
Governmental Employees

Senator Diane J. Savino
Chair, Senate Committee on Internet and
Technology

Assemblyman Walter T. Mosley
Chair, Assembly Commission on Skills
Development and Career Education

Senator Rich Funke

Assemblyman Joe DeStefano

Senator Shelley Mayer

Assemblyman Harry Bronson

Senator Robert Jackson

Assemblywoman Patricia Fahy

Senator John Liu

Assemblyman Al Taylor

Senator Brian A. Benjamin

Assemblywoman Nicole Malliotakis

Senator James Sanders Jr.

Assemblywoman Marianne Buttenschon

Senator Michael H. Ranzenhofer

Assemblywoman Jo Anne Simon

Senator Patty Ritchie

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Assemblywoman Judy Griffin

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CHAIRWOMAN KRUEGER: Good morning. If everyone would come take their seats. Thank you. Good morning.

And then, Commissioner Reardon, if you'd like to come up -- I'll start off with the general announcements, but you can come on up.

Good morning. My name is Liz Krueger. I'm chair of the New York State Senate Finance Committee and cochair of today's budget hearing, along with my colleague Helene Weinstein, the chair of the Ways and Means Committee in the Assembly.

Today is our seventh of 13 hearings conducted by the joint fiscal committees of the Legislature regarding the Governor's proposed budget for the state fiscal year 2020-2021.

Today the Senate Finance Committee and the Assembly Ways and Means Committee will hear testimony concerning the Governor's proposed budget for the New York Department of Labor, the New York State Department of Civil Service, and the New York State

Governor's Office of Employee Relations.

Following each testimony there will be some time for questions from the chairs of the fiscal committees and other relevant committees, as well as other legislators on those committees.

I will now introduce members from the Senate. Assemblymember Helene Weinstein, chair of Ways and Means, will introduce members of the Assembly. In addition -- I don't -- okay, we'll skip that for the moment.

Just before I go to introducing people, because we might get a few more here, for everyone testifying today, you are allowed to have an opinion about what's being spoken about or testified about; you're just not allowed to do loud responses. If you oppose or support something going on, things like that (gesturing) work fine, and we can all see you.

Even if you are not able to testify in person today, you are welcome to submit your testimony, wherein it will go to all members

of the Legislature and be up online for the public to see, I think up to seven days after each hearing.

There are time clocks that let you know how long you have left to speak. Government witnesses have 10 minutes. Other witnesses have five minutes.

Trust me, if you have a 10-page piece of testimony, you would get through two pages. Don't read your testimony. Highlight the bullet points that you think it's most important for us to hear from you, because otherwise we'll be cutting you off and you saved all the good stuff for your last pages. That's not the way to do it.

Again, chairpeople have 10 minutes to ask questions, all other legislators have five minutes, for the government witnesses. Any legislator who feels the need to ask additional follow-up questions should talk to Helene or myself. And for nongovernmental witnesses, all legislators have three minutes to ask the witnesses.

I am joined by Senator Andrew

Gounardes, chair of --

SENATOR GOUNARDES: Civil Service Committee.

CHAIRWOMAN KRUEGER: Thank you, I couldn't remember what we called --

(Inaudible comments off the record.)

CHAIRWOMAN KRUEGER: -- Jessica Ramos, Richard Funke -- are you the ranker, sir? Thank you -- John Liu and Diane -- is that Diane in the front? Good, just double-checking. Diane Savino, chair of Labor {sic}.

And the Assembly?

Oh, I'm sorry. Excuse me. Jessica Ramos is chair of Labor. I'm so sorry. Diane Savino.

CHAIRWOMAN WEINSTEIN: We are -- the Assembly is joined by the chair of our Labor, Assemblyman Crespo; chair of our Government Employees Committee, Assemblyman Abbate. And our ranker on the Ways and Means Committee, Ed Ra, will introduce his conference members.

ASSEMBLYMAN RA: We're joined this morning by Assemblyman Joe DeStefano, who's a

member of the Labor and Government Employees Committees.

CHAIRWOMAN KRUEGER: And we're also just being joined by Jim Seward, who's our ranker on Finance, and Senator Shelley Mayer, who snuck in on the Assembly side.

Hello, Shelley. You can come down here if you prefer. Shelley was an Assemblymember, so I guess she feels comfortable down there.

All right, good morning, Commissioner Reardon. You have 10 minutes to present.

COMMISSIONER REARDON: Thank you very much.

Good morning, Chairs Krueger and Weinstein and distinguished members of each committee. Thank you for this opportunity to talk about some of the proposals that Governor Cuomo has put forward in his Executive Budget, as well as the Department of Labor.

My name is Roberta Reardon, and I am the commissioner of the Department of Labor of New York State. I am very proud to lead

the department in carrying out its mission of protecting workers, providing benefits to the unemployed, and connecting job seekers to jobs.

The work we do is challenging and constantly evolving, but the dedicated and motivated employees behind our record of accomplishment continue to deliver.

Governor Cuomo has been steadfast in his commitment to ensuring equal opportunity, no matter where you stand on the economic ladder. As a state, we are in a stronger economic position -- better than we have been in many years. Most importantly, though, greater prosperity isn't reserved for the wealthiest few. Under the Governor's leadership, I can report today that the minimum wage is $15 in New York City, $13 in Long Island and Westchester, and $11.80 in the rest of the state. At the start of this administration, New York's minimum wage was just $7.25 an hour.

Under Governor Cuomo's leadership, New York has had the strongest decade of

growth since the 1940s. Since the beginning of this administration, the New York State economy has added 1.2 million private-sector jobs and has experienced a record-setting 117 consecutive months of growth. The state also maintains a very low unemployment rate of 4 percent.

Against the backdrop of low unemployment, we also see fewer New Yorkers collecting unemployment insurance -- 581,000 in 2019, and that is down from over 1.4 million claimants during the recession. I am proud to say that the Unemployment Insurance Trust Fund has a balance of $2.5 billion, thanks to the UI reform laws passed a few years ago here.

Our Unemployment Strikeforce is working to provide more intensive services to communities dealing with high unemployment. These targeted efforts are in addition to the broad array of services our staff provide in the 96 career centers operated in your districts.

Businesses are the lifeline of our

economy, and the Department of Labor supports this relationship through the many positive actions we take on behalf of the business community. In 2019, we served over 33,000 businesses. Over the past three years, we've approved more than 300 new registered apprenticeship programs and added 30 new trades. Additionally, the New York Youth Tax Credit Program connects at-risk youth to jobs. These programs help us diversify our workforce to meet the needs of emerging sectors.

The Department of Labor is committed to protecting workers and leveling the playing field for all businesses. Year after year, the department has distinguished itself as a national leader in returning unpaid wages to workers. Since 2011 we have returned nearly $320 million to approximately 280,000 workers. We return over 80 percent of the unpaid wages reported to us.

We have accepted Governor Cuomo's challenge to tackle the problems affecting our most vulnerable workers. The state

recently adopted important reforms in the farming industry. Following a statewide series of hearings to gather input from all stakeholders, Governor Cuomo signed a bill to establish the Farm Laborers Fair Labor Practices Act. It grants farmworkers overtime pay, a day of rest each week, and protections that other workers have enjoyed for over 80 years.

We continue to lead the nation in protecting employees from sexual harassment in the workplace. In 2018 the Governor proposed, and the Legislature passed, legislation to protect all workers. Department staff worked closely with representatives of the business community to develop the training materials that all businesses can use to comply with the requirements.

Last month a new salary history ban, that was recommended in the department's 2018 gender wage gap study, took effect. It breaks the cycle of unfair compensation by prohibiting all employers from asking

prospective or current employees about their salary history and compensation. Women are disproportionately prone to abuses in these areas.

In 2019, Governor Cuomo directed the department to eliminate the subminimum wage for all workers in "miscellaneous" industries throughout the state. These are car wash attendants, nail salon workers, dog groomers, and tow truck drivers, just to name a few. By the end of this year, more than 70,000 workers will be in a better position to support themselves and their families.

Governor Cuomo wants to bring paid sick leave to 1.3 million workers who still can't take a day off to go to the doctor or recover from an illness without the fear of being fired or losing their wages. It is in the best interest of workers, businesses, and the general public to have a sick employee remain home and take care of themselves, rather than bring their illness to work.

The upcoming census is extremely important to our state, and we need to ensure

that everyone is counted, in spite of the negative rhetoric that's coming out of Washington. The department is actively engaged in the statewide effort to count every New Yorker, with a special emphasis on communities that have been identified as "hard to count."

Where we are going is built upon the strong foundation of where we have been. As Governor Cuomo has said, we must continue to transform our words into action -- into tangible, positive change in the life of every New Yorker. We intend to do just that.

Thank you.

CHAIRWOMAN KRUEGER: Thank you. Thank you.

First up is our chair of Labor, Jessica Ramos.

SENATOR RAMOS: Good morning, Commissioner. {Mic off.}

COMMISSIONER REARDON: I'm not sure you're on.

SENATOR RAMOS: Sometimes I'm not sure it's just how loud I am or whether the mic's

actually working.

But good morning, Commissioner. Can you tell us how many employees there are in the Department of Labor?

COMMISSIONER REARDON: It's over 3,000.

SENATOR RAMOS: And about how many are workplace inspectors?

COMMISSIONER REARDON: We have over a hundred inspectors. I think it's 125.

SENATOR RAMOS: And how many workplace inspections did the DOL carry out in New York State in 2019?

COMMISSIONER REARDON: I don't have that number, but I can get it for you.

SENATOR RAMOS: Can you walk me through what a routine workplace inspection looks like?

COMMISSIONER REARDON: So it depends on which kind of inspection you're talking about. We have a wide range. If it's public safety and health, it's one process. The asbestos people have a process. It is varied. So if you want to know about a

specific kind, it would be helpful.

But they essentially -- we receive a complaint, is generally how these inspections are generated, and they go in and ensure that the regulations are being followed. There are certain things that employers have to file. It really depends on what they're looking for.

SENATOR RAMOS: Given the proposed budget cuts in the Governor's proposal for the Department of Labor, do you think you will be able to keep up the rate of work, the capacity that you have?

COMMISSIONER REARDON: I'm not sure what budget cuts you're talking about.

SENATOR RAMOS: He is -- the Executive Budget is proposing a $3.62 billion cut, a decrease -- oh, it's actually a decrease of $13 million from last year's budget.

COMMISSIONER REARDON: So I think that's actually referring to the LAOs. Our budget did not decrease this year. And I think that is actually the legislative add-ons that get added in every year that

come from the Legislature.

SENATOR RAMOS: Okay. Last time -- at last year's hearing we talked a little bit about sexual harassment. Can you tell me about how you're continuing to work with employers on training? Have you created multilingual training, any other new methods that you're employing?

COMMISSIONER REARDON: Thank you for asking about that. It's something we're really proud of.

We know that we've had -- it's been a law for about a year. We have had over 350,000 individuals contact our website that deals with the sexual harassment training. And in light that there are a little over 400,000 businesses in this state with more than one employee, that is a very good sign that employers are actually accessing the training website.

I am tell you anecdotally -- and it's just funny to me -- I did a lot of the videos that we use, and consequently I go around the state and I'll walk into a room

and people go: "Oh, you're Roberta. I saw you, you were in the training." So it's a funny thing to have happen, but it says to me that people are actually using the videos and that people, that the employees are actually paying attention to it. So I've had some really great conversations with employers and their employees about how the trainings are working.

The best thing -- and I think you and I have talked about this before -- for me -- and, you know, I worked in industries that had a lot of issues in these areas and I was aware of it myself. The best thing about the training is it takes this out of the shadows and it puts it in the public square. And we now have conversations openly and frankly about what is sexual harassment. Because to some people, a joke is a joke. To other people, it's not a joke, it's offensive.

These trainings actually raise everybody's awareness. But it gives everyone, employer and employee, the ability to have that conversation together. And it

allows the employer to have a written policy that's frank and open and people need to follow it, it's protective for the employer. For the employee, they understand what the standards are. And most important, they understand what is the process within that workplace if they feel harassed.

When it happened to me a long time ago, there was no one to talk about it with, there was no one to go to. And I didn't talk about it with my colleagues because I was embarrassed. And, you know, that was a terrible thing. That's not going to happen anymore. Now we're going to say if this happens to you, here's the process, here's how we deal with it, and here's your access to justice.

So I have to say to all of you, thank you for giving us that task. It was great for us to do, and I'm very happy that we've done it. And we've added -- you know, as the law has changed, we've updated the training videos appropriately.

SENATOR RAMOS: Is there a formal way

in which you're reaching out to employers who aren't taking advantage of these materials that the Department of Labor has produced?

COMMISSIONER REARDON: So we -- you know, when -- there are a lot of different ways to reach employers. We do a lot of business connection through our business services people on the workforce side. And that's part of the packet that our business services people take with them -- just a reminder, these things are available. There are a lot of ways that we touch employers and a lot of ways we touch employees, and we make sure that this is part of the dialogue.

We do not do the enforcement. That's the Division of Human Rights. And any time somebody alerts us to a problem, we refer them to DHR because that's where the action will be taken.

I have worked very closely with Commissioner Fernandez, and she's a great colleague and it's a pleasure to have her there. It's a great teamwork.

SENATOR RAMOS: Thank you. I was

wondering -- I mean, I'm very happy that the Governor felt inspired by the car washers bill that we passed in the Senate and the Assembly last year in order to take away the subminimum wage or the tipped wage for so many workers. Why weren't restaurant workers included?

COMMISSIONER REARDON: So we did very extensive hearings. We had 40 hours of public hearings that I attended every minute of, and I'm really glad I did. We also had over 3,000 written comments following the hearings. And we did a lot of research with other states, with scholarly writings about all of this.

The thing that became immediately clear in those hearings was that the workers in the miscellaneous industries were the ones most at risk for a lot of wage theft. We knew from our own investigations that these industries, for a variety of reasons -- not just because there are bad employers, but because it's hard -- those regulations were difficult to enforce, difficult to follow.

These were people who -- these are workers who came to us and said, I don't know what my base pay is. I can't tell if I'm paid correctly or not because I don't know, on any given day, what kind of base pay I'm going to get, it's too complicated.

And a car wash is a great example of this. They would have a tip jar at the counter, and people may occasionally put money into it. At the end of the day, the manager or whoever would take the tip jar in the back, count it, and hand out money. And the workers said: We don't know how much was in the tip jar, we don't know if it was distributed appropriately to the workers, we don't know if the manager or whoever was pocketing part of it, because we have no control over it. So that was -- that's a red flag. That says this is an industry -- oh, and also these are industries, if you think about dog walkers, tow truck drivers, car washers, even nail salons -- a lot of the people doesn't understand that these people are depending on tips.

SENATOR RAMOS: So you don't believe that wage theft is rampant in the restaurant industry?

COMMISSIONER REARDON: We knew that the first remedy had to be the miscellaneous industries, because they were the ones most at risk.

We did hear a terrific amount of testimony, in those 40 hours and in the written testimony, from hospitality. And I must say I was surprised that many, many, many -- the majority of workers who came into the hospitality part of the hearings said we like the system the way it is.

So that means that there is not a clear understanding in the worker pool of that industry -- well, it's not one industry -- of the hospitality area.

So we are going to continue to monitor it and see how this develops. It is a very diverse industry. It goes all the way from a four-table mom and pop, you know, coffee stand all the way to the Four Seasons, and everything in between. And it encompasses

very robust economies and some economies that are not very good at all. So it takes a lot of thinking to figure out how we want to deal with this.

But the surprise was how many people came into the hearing and said, Please don't change it. So, you know, you have to listen to the workers too.

SENATOR RAMOS: Thank you, Commissioner. I'm going to yield my time for the second round, please. Thanks.

CHAIRWOMAN KRUEGER: Thank you.

Assembly. Oh, I'm sorry, we are joined by Senator Brian Benjamin and Senator James Sanders.

CHAIRWOMAN WEINSTEIN: And since we started, we were joined by Assemblyman Mosley, Assemblyman Taylor, Assemblywoman Buttenschon, Assemblywoman Simon, Assemblywoman Fahy.

And we go to Assemblyman Crespo, chair of our Labor Committee.

ASSEMBLYMAN CRESPO: Thank you, Helene.

Commissioner, good morning --

COMMISSIONER REARDON: Good morning.

ASSEMBLYMAN CRESPO: -- and thank you for your testimony.

One quick comment just to thank you. The Strike Force initiative in the Bronx, the new data shows a historic drop in unemployment, and we're extremely grateful for the work that's happened there.

Which leads me, though, into one area where you mentioned the tax credit to small businesses that provide opportunities to youth in certain communities, and coupled with Summer Youth Employment and other programs. One thing I would love to follow up, maybe not necessarily now, but I want to put this on your radar, is I would like to get a better sense of the total number of youth, those between 14 and 17 or 18, that are being serviced by one of the many programs. I'd like to get a better sense of just how many lives are we reaching. And I do believe it's an important part of that pathway out of poverty, is to get an early

start.

COMMISSIONER REARDON: I agree with you.

ASSEMBLYMAN CRESPO: So I'd love to get a little more into that at another time.

But just -- the sick leave proposal, do you know how many employers in the state currently provide sick leave?

COMMISSIONER REARDON: I do not. I do know that the proposal would affect about 1.3 million workers, so that gives you some sense -- it's probably -- a lot of -- we all know a lot of larger companies, corporations, have their own -- a lot of unionized companies also have these things written into their contracts or their policies. So probably it's mid-to-smaller businesses that don't, although there may be some larger ones that don't.

But it is 1.3 million workers would be affected.

ASSEMBLYMAN CRESPO: So New York City has a -- currently has a policy, and one of the things that they did in their language in

their program was to clarify that if you are part of a collectively bargained employment opportunity and there are already, you know, agreed-upon terms as it relates to sick leave.

I don't see the same language carried over in the budget language. Is that something that you are looking into or discussing?

COMMISSIONER REARDON: I could be wrong -- I often am -- but I think that there's language in there that collectively bargained situations are carved out.

And the understanding is usually in -- I was a union president, so I'm really familiar with this. When you're collectively bargaining for your members, you bargain above the local standard. You know, you try to raise the standard for your workers.

So it would be highly unusual if there was a collective bargaining agreement that was less than the standard.

ASSEMBLYMAN CRESPO: I just think -- and maybe that's something we should kind of

dive into after this. Because I did see a number of folks, different organizations, that were concerned that the proposal wasn't very clear, and there was a concern that it may potentially, if it remains as is, could have that impact.

And then one other thing in terms of if you are an employer, I think the lowest threshold would be four employees or more, if I'm not mistaken. But if your personnel numbers changed through the year, how is that calculated?

COMMISSIONER REARDON: Usually the way it works is it's -- for things like this, it's per year. But I don't know what the standard is in this particular piece of legislation. I'd have to look.

But in other situations I know -- I think it was in maybe the wage bill, there was another thing like this where the standard was set at the first of the year and it didn't change until the next year.

ASSEMBLYMAN CRESPO: Well, again, we'll follow up on that. I just wanted to

get a sense of the practical implications for those where there's changes, where some -- you know, an employer who may start the year with a certain number and then, midway through, at what point does that employee earn that leave and/or the costs associated with it.

Very quickly on the farmworker legislation, we worked really hard to find balance and thread a needle, and after so many years finally those got those protections in place. I know there was a lawsuit filed, and a stay, on the issue of consanguinity, if I said that correctly.

Is there an understanding that this proposal would resolve what's at the heart of the lawsuit? And then is there -- has there been discussions or is it your understanding that if this issue were passed and if that is resolved, that that would stop any efforts from the industry to continue to challenge the legislation?

COMMISSIONER REARDON: So I'm not going to comment on the litigation because

that's in front of the courts. It would be inappropriate for me to comment on that.

I will say that there is some I believe Article VII language being developed that may touch on that. But we are moving ahead with implementing the majority of it -- because it's a very narrow part of the Fair Labor Practices Act that's under review. So we're continuing to enforce the rest of it. And I look forward to what happens with the litigation.

I want to congratulate all of you for passing that bill. It really was a remarkable effort, and it was a remarkable negotiation. It's -- you know, it's not just an up or down kind of question, and you did an amazing job of threading that needle. And thank you.

ASSEMBLYMAN CRESPO: Well, I appreciate it. But that required also a lot of conversations and give and take, after so many years, to finally strike that balance. And I certainly believe that we need to do more for farmers and make sure that their

businesses continue to be vital. And I want to be a part of that conversation and be helpful.

But I am concerned that we -- if addressing this doesn't resolve an understanding and an agreement in those negotiations, that would be a concern. And I want to make sure that we're not undermining the very protections it took so long to achieve.

COMMISSIONER REARDON: I will say that I've worked very hard to form a relationship -- it's not hard to do -- with Richard Ball, the commissioner of Ag & Markets. He's a wonderful -- he's a good friend. And we've talked about these issues since I first met him four years ago. And we're in agreement that these are issues that need to be addressed.

ASSEMBLYMAN CRESPO: And then I'm going to keep it till the last issue because we're going to run out of time. But I noticed that in your testimony there was not a specific mention on the prevailing wage

proposal and/or the so-called gig worker proposal, which are two of the major items affecting this part of the budget, and major policy changes.

So I want to focus on the gig worker just a little bit. How would this work? We would create a task force, assuming the budget gets passed April 1st. That group would then have 30 days to propose legislation. And if it's not adopted, the same language would authorize your department to promulgate rules. And there's not a lot of specificity as to what -- the position you would then immediately approve.

So can you elaborate a little bit on how this would work?

COMMISSIONER REARDON: So the -- first of all, the task force can -- we can convene the task force now. There's nothing that would stop us from convening them. And I look forward to working with the people that you appoint.

I think it's a really -- this is a -- you know, first of all, thanks to the

Governor for calling it "digital marketplace" and not "gig." I worked in the gig industry. These are not gigs. It is the digital marketplace. And it is a really turbulous {sic} workplace. It's turbulent. It's changing rapidly. There are some gig companies that have already disappeared. There are ones that are just emerging and we don't even know about them.

And we need to understand, first of all, who we are identifying in this landscape, because that's a big part of this. Who is a digital marketplace worker, how do we define them? Who are the employers? And then we can begin to talk about what kinds of labor protections do we need to look at for this area.

You need to protect workers because they should not be working in a place where all of the risk of a company is pushed onto them without a choice on that worker's part. On the other hand, you want to make sure that emerging technology has a place to thrive and develop. We're very proud of all the tech

work that we do here in New York State, and we want to make sure that we're as welcoming as possible, balancing that. And that is going to be a big part of this investigation.

We've been looking at it up till now, but now I think with the formation of the task force, we'll have an opportunity to really dig in and begin to do the defining work that has not been done yet.

ASSEMBLYMAN CRESPO: And so if the task force meets, we discuss this in 30 days and we fail to sort of meet an agreement on a a tangible proposal, there is some language in there that would be -- or it seems to be the parameters under which your agency would promulgate certain rules. And there's a mention of what an ABC test would look like.

We also have the Fair Play Act in law, which has many more criteria associated with it.

So I guess just generally, if we fail to make a recommendation, do you see your agency looking towards this strict ABC? Do you see yourselves maybe promulgating

something more elaborate, like the Fair Play Act? And would that, in your mind, apply to all digital marketplace workers or all independent contractors?

COMMISSIONER REARDON: Right now the focus is a task force to talk about digital marketplace, so that's what we're going to start with.

I would be very hesitant to say this is what I think should happen, because we haven't even described who we're talking about. So I don't want to create a solution for a problem I can't identify.

And there's nothing to stop this task force from being informative and informing the opinions of the Department of Labor. You know, I'm certainly not the wizard of digital marketplace workers. I need help, like we all do. And I look forward to working with your appointees on this because it's a huge issue for everyone. It's not just a New York City issue, it's not just a New York State issue, it's global. And we need to get a handle on it.

ASSEMBLYMAN CRESPO: Thank you.

CHAIRWOMAN WEINSTEIN: We were joined by Assemblyman Bronson.

Senate.

CHAIRWOMAN KRUEGER: Thank you.

John Liu.

SENATOR LIU: Thank you, Madam Chair.

Thank you, Commissioner, for being here today.

COMMISSIONER REARDON: Good morning.

SENATOR LIU: And I want to continue with questions about the issue that Assemblymember and Chairman Crespo already asked you about.

You stated that you're not quite sure who the workers are, but you're very clear that we're talking about the digital marketplace. But we're talking about -- I mean, there's a general sense of who we're talking about, isn't there? I mean, it's not that hard to identify who these workers are.

COMMISSIONER REARDON: Do you think? I mean, I --

SENATOR LIU: I mean, you know, you

might be able -- you can certainly identify the vast majority of the workers just off the top of your head.

So I'm not asking you to identify the workers, I'm asking -- I would ask you what kinds of issues are there. What kinds of protections might there be that these workers are currently lacking?

COMMISSIONER REARDON: There have been a lot of discussions in a lot of different forums about this. One of my cautions has always been: Be careful that you don't fix the first problem you see and cause a larger problem because you think you've fixed it.

And I think that the portable benefits issue is a good part of this. That's a very important thing for workers in this kind of volatile workplace. But it's not the only issue they face. A friend of mine said to me -- here's an example -- I order a pizza and an employee of the pizza shop gets in the car, drives, drops off the pizza, gets a tip or not, drives back, goes back to work. He or she is an employee.

Same pizza, different shop. They have a delivery service, not an employee of the shop. That person gets into their car, they deliver the pizza.

On the way back, the first person has an accident. They're an employee, they get workers' comp because they're on the clock and they may have, you know, provided healthcare from the employer, all kinds of situations. They're an employee.

The second person has nothing. If they have an accident in that car, it's probably their car, and they're probably on the hook for that. But they also have no workers' comp, they won't have any unemployment insurance. So they're on their own. And what happens to workers when that happens? They're not just on their own, they're on our own, because society has a responsibility --

SENATOR LIU: I understand that. So the worker in the second scenario that you illustrated basically doesn't have protections that we would expect all workers

to have.

COMMISSIONER REARDON: Yes.

SENATOR LIU: And yet that person is a worker. So we're talking about how to extend the same protections that the first worker has to the second worker. That second worker is now on call, they may be contacted by their app, they may not even have ever met their employer in person.

But this is a problem that didn't just start with this so-called digital marketplace. Right? It's been happening for quite some time. Workers that don't have protections that other workers have, because they've been classified as, as Chairman Crespo mentioned, independent contractors.

So the Department of Labor -- and this predates your tenure -- didn't really do much to address this issue, the issue of independent contractors, the issue of employers classifying their employees as independent contractors even though those employees got no other paycheck from any other source, were directly told what to do

and what not to do, under the total control of the employer -- and yet because they were classified as independent contractors, they had no benefits or protections whatsoever.

COMMISSIONER REARDON: So we do have the joint task force, which goes out and works on misclassification cases all the time. It's not just the DOL, it's workers' comp, it's often the Department of State, often the State Liquor Authority, because it involves those industries. And we regularly go after misclassification on a regular basis. So the fact -- to say that we've done nothing is not correct.

The misclassification cases are often decided by courts, which is a problem because the court changes an opinion and then we have to adjust.

I will say it's important to responsible -- because I've done this. I have been a legitimate independent contractor. I have signed an agreement with an employer saying I'm going to -- in my case it was research -- I'm going to do research

for you and I am running my own business doing it. And I pay the 1099s at the end of the year. So there are legitimate people who have small businesses. My brother is a graphic designer, he's a one-man band.

SENATOR LIU: We're not talking about those people, we're talking about people who are -- and I want to take a point that you just mentioned before, that all right, I stand corrected, the Department of Labor has been part of this -- what you called the joint task force. That task force has taken employers to task.

COMMISSIONER REARDON: Yes, we have.

SENATOR LIU: But you alluded to the fact that the courts don't always interpret in the same direction that the task force does, meaning there's a shortcoming in the law. The law needs to be beefed up to protect these workers.

COMMISSIONER REARDON: I just enforce it.

SENATOR LIU: Thank you.

Thank you, Madam Chair.

CHAIRWOMAN KRUEGER: Thank you.

CHAIRWOMAN WEINSTEIN: Assemblyman Ra.

ASSEMBLYMAN RA: Good morning, Commissioner.

COMMISSIONER REARDON: Good morning.

ASSEMBLYMAN RA: Just on that same topic of this digital marketplace worker classification task force, would it be contemplated that, you know, there would be public hearings, opportunity for public comment from people that are in this industry and other stakeholders to come in and speak to this task force before they put forth the recommendations?

COMMISSIONER REARDON: We do that on a pretty regular basis, so I would not be surprised to see that we do that. I mean, it's important to hear from everybody affected. It's not unlike the tip credit hearings that we held. We want to know how it affects the workers and how it affects the businesses.

ASSEMBLYMAN RA: And I know you said, you know, we have to kind of get to the

bottom of really what we're even talking about. So I would say at this point you don't have, you know, a basic ballpark of how many workers we think would be impacted by the work of the task force?

COMMISSIONER REARDON: It's hard to say. Yeah, it's a very -- you know, we haven't defined it, so it's hard to count.

ASSEMBLYMAN RA: Thank you.

CHAIRWOMAN WEINSTEIN: Senate?

CHAIRWOMAN KRUEGER: Thank you.

Good morning. Just briefly, clearly the issues of the gig economy, digital workers, independent contractors, is enormous and is on all our minds. But we aren't really the right place to have the discussion here. Because while the Governor has said he's creating a task force, we all think that we need to be involved in this and likely the law.

And I would just urge all of my colleagues to call for some kind of joint hearings specifically around these issues, invite yourself to whenever this task force

is going to meet. Have the members been named yet?

COMMISSIONER REARDON: I don't think so.

CHAIRWOMAN KRUEGER: Okay. So encourage both houses that we want to be on that task force, we want to have hearings with that task force. We probably want to have hearings ourselves because I suspect it's an enormous number of people throughout the State of New York, and nobody has clarified this. And based on the number of people showing up at our offices to talk about it, everyone thinks we do need to do something about it.

But in order to move this hearing, we're going to try to stay focused on issues within the budget documents for all of these speakers and questioners today. And while I think this might be the biggest issue facing you, it's not one that I think this -- you are ready to give us answers to or we are ready to even complete our questions on.

With that, Senator Seward is next up.

SENATOR SEWARD: Thank you.

Thank you, Commissioner.

COMMISSIONER REARDON: Good morning.

SENATOR SEWARD: I had a question regarding prevailing wage and how these are set in the various regions around the state.

There's been speculation, I hear it often from various stakeholders in the past, where they're questioning just where these numbers come from and how does the department calculate the prevailing wage in each region. And of course I have no way of knowing, you know, whether the speculation is accurate or not, because we just don't know where these numbers are coming from and what's behind them.

So my question is, has there been any effort by your department to increase the transparency with how you calculate the prevailing wage for each region of our state?

COMMISSIONER REARDON: That's a good question. I've not had that conversation with my staff. I'd be happy to have that conversation with you.

SENATOR SEWARD: Well, that is an issue that I think we'd like to have you look at, for the benefit of all concerned.

COMMISSIONER REARDON: Sure.

SENATOR SEWARD: You're familiar with the Public Subsidy Board that is included in the Governor's proposal. This is something new made up of 11 members. I know there are seven that are identified in language. Can you share with us who the other four will be on that Public Subsidy Board?

COMMISSIONER REARDON: I have not had that conversation yet, so I don't know.

SENATOR SEWARD: Okay. As I read it, the powers of this new proposed subsidy board seem very, very vast. And their decisions would have the full force and effect of law and would not be subject for appeal, for one thing.

And from what I read in the budget proposal, it appears that the board possesses the ability to -- really to change everything, including the minimum thresholds that are listed in the first part of the

bill.

My question is, why are these minimum thresholds even being proposed if the board can simply do away with them when it so chooses, it would have that kind of power?

COMMISSIONER REARDON: So my thinking about this board is that it is a board that meets when clarity is needed about a particular project. The regulations as currently written are pretty clear -- you know, 30 percent or more of public funding, and they identify what the public funding is and what some carve outs are, and $5 million or more in the cost of the project. And so that's a pretty clear determination.

My understanding of this board is that we are there in cases of lack of clarity, when it's hard to determine whether the project as proposed is meeting those benchmarks. I do not expect this board to be constantly in session saying yea or nay on every project that goes on. That would be wrong, frankly. And it is a board of -- it's a decision-making board when other decision

points can't be met.

And I can tell you, as the chair of that board, I have a lot of other work to do, so I'm not looking forward to making all those decisions. But I also think the regulations are going to be clear enough -- I've had a lot of conversations with businesses and with developers and construction companies, and the one thing that they all say is, look, we can adapt to regulations, that's what we do. What we want is clarity.

What we don't -- what's hard for them is to have a sort of murky world where this may or may not be in or out. This is a way of saying, these are the rules, this is the framework, and this is what applies. This doesn't apply, this does apply. The board is there when, for a particular reason, you can't really make that determination.

SENATOR SEWARD: Well, I appreciate you sharing your vision of what this board would do, as chair. But I think perhaps we as a Legislature need to tighten up the

language a bit to provide that direction.

I want to -- the final question is regarding the paid sick leave proposals in the budget. The language submitted by the Executive requires employers to provide no less than one hour of paid sick leave for every 30 -- I believe it's 30 hours of work.

Is it the intention of this proposal to have part-time employees accrue sick leave?

COMMISSIONER REARDON: Well, if it's one hour for every 30 hours, then it covers somebody who's working 30 hours.

SENATOR SEWARD: Okay. Which would be considered part-time in many cases.

Have you or the administration considered the impact on -- you know, I'm talking about the smallest of small businesses here -- you know, family farms, you know, small coffee shops, that type of thing, who often bring on an extra employee or two at the very busy season for them, but it would kick them up to the point where they would now be really unable to do that because

they would be required to pay sick leave for all of their employees. Is there any consideration of that when you bring on someone temporarily?

COMMISSIONER REARDON: The way it's written right now is four or fewer. It's sick leave with no pay. Five or more, it's paid sick leave, and that's the determination.

And, you know, I can't really speak to the seasonal employees. I'd have to have a conversation, you know, more about that. But that is the intention, is that if you have a very, very small business, you will provide sick leave but you won't pay for it.

But I do want to point out the productivity of a sick worker drops precipitously, and that harms the business as well as the other people who are working with that sick employee, and it harms the public. It's flu season. How many times have you walked into a restaurant, a coffee shop, a bank, whatever, and somebody is coughing and sneezing, blowing their nose, and you're kind

of like, Oh, maybe I need to go somewhere else?

It's in the public interest to make sure that workers have the opportunity to take a day off and get well, rather than come into the place of business and share their illness with everybody in there. And the research has said when people have this kind of paid sick leave available, typically they don't use all of it. I mean, I don't know, I don't get sick that often -- thank God -- but if I do have the flu, I don't want to share it with any of you.

SENATOR SEWARD: Well, we appreciate your perspective. And I would just ask that we keep in mind these small businesses and what the impact would be and how we can work that out.

COMMISSIONER REARDON: Yes. Yeah. Thank you.

SENATOR SEWARD: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: Assemblyman

Bronson.

ASSEMBLYMAN BRONSON: Good morning, Commissioner.

COMMISSIONER REARDON: Good morning.

ASSEMBLYMAN BRONSON: So I first want to ask a quick question about a topic that's near and dear to your heart and mine, and that's the apprenticeship programs.

COMMISSIONER REARDON: Yes.

ASSEMBLYMAN BRONSON: So do you have a status for us regarding the Empire State Apprenticeship Tax Credit Program? And if you can answer that in twofold. One, how many folks have been taken advantage of, for 16-year-olds to 24-year-olds? And how many in the general apprenticeship program?

COMMISSIONER REARDON: So I'm going to see if I can find you the actual numbers. I don't know if I have it here. Hold, please. Because, you know, I love this program as much as you do.

In 2019 we had 114 programs, and 69 businesses took part in the tax credit itself. I can't tell you exactly how many

apprentices in each program.

I have to say that -- we've talked about this a lot -- apprenticeship is such a wonderful way for someone to develop a career and have a job at the same time. And thank you for this program, because it enables us to expand the use of apprenticeships beyond the traditional places. The building and construction trades are the gold standard. They've been doing it for decades, and they do it extremely well. But they're teaching the rest of industry how they can develop an apprenticeship program to have a great pipeline of workers and support people in their region who want to stay in that region and work.

It is -- it's a great opportunity. We're expanding the number of women in apprenticeships because of this. And we're expanding outside of the building and construction trades. You know, the numbers that I gave you in my opening statement, most of those trades were not building and construction, they were outside of it -- so

IT, healthcare. I go out all the time and talk to people about apprenticeships.

Advanced manufacturing. We're beginning to develop a really strong core of manufacturing entities that are developing their own apprenticeship programs. One of the things that people talk about a lot when I go out is they have trouble finding skilled tradespeople, not in building and construction, but in their plants, to maintain their plant. And the apprenticeship program is a wonderful way for that company to develop a pipeline.

And those are the people I visited on National Apprenticeship Week and met some fabulous young apprentices -- young men, young women. And they're learning to be skilled tradespeople and working in their region. And thank you for the tax credit -- and they said that to me.

ASSEMBLYMAN BRONSON: Excellent. And if you could just get me a full report on where we're at, what kind of industries that people have been taking advantage of this

program, and how many are in the special tax credit, the higher dollar amount. And also the tax credit also included a mentoring program, and whether or not people are taking advantage of that enhanced mentoring tax credit.

COMMISSIONER REARDON: Mentoring is really, really important. It really helps.

ASSEMBLYMAN BRONSON: On another issue, the $175 million workforce development funds, the applications were released in the middle part of last year. Do we have a sense of how many applications have been submitted? And in --what type of areas are they covering?

COMMISSIONER REARDON: So I don't have those numbers. That's actually in the Office of Workforce Development, you know, at the executive level. We work very, very closely.

I have to say Madhuri Kommareddi is a fabulous, fabulous person in that job, and she's wonderful to work with. And Karen Coleman, who's our deputy commissioner for workforce, they work very closely as a team.

It is -- it's a really smart way to do it.

So there are -- as you know, there are lots of parts of agencies that have some component of workforce development. You know, vets have programs, OTDA has programs. A lot of our stuff is workforce development. The Workforce Development Office is a way to bring all of that together and have a more holistic view of what kind of work we're doing, what kind of work we're incentivizing.

They're working very closely with the REDCs. I think the first thing that Madhuri did when she came in was go out and visit all the REDC councils and talk to them: What are your priority projects, what are the deficits? How can we help you build a pipeline of training?

And the thing about the CFA, the money, unlike other programs, it's ongoing. So there's no clock on it. You don't have to have your applications in by April 30th and then the money stops. This is a rolling amount of money, so people have the time actually to be thoughtful about what is the

program I want to develop, write a good application, and have a shot at getting the money. So it's ongoing. But people are really, really excited about it.

ASSEMBLYMAN BRONSON: So I don't have a lot of time left, but on the prevailing wage, an issue you know I've been working on for the last three years, the public subsidy board that has been in the Governor's proposal, I'm a little bit confused since we have minimum thresholds set up, we have some exemptions.

But how is this supposed to work? Because it's saying that you set up minimum thresholds, that certain carve-outs will happen, maybe for affordable housing. And they also will make a recommendation on the definition of construction. So how do you see this working, since we have some of those issues addressed in the statute itself, as proposed.

COMMISSIONER REARDON: I'm not sure I understand your question, I'm sorry.

ASSEMBLYMAN BRONSON: All right.

Well, I'm out of time, so we'll have to talk offline. But the subsidy board is confusing because it's supposed to give recommendations on items that are actually already part of the proposed statutory language.

COMMISSIONER REARDON: So let's talk offline. I've love to do that.

CHAIRWOMAN WEINSTEIN: Before we go to the Senate, we've been joined by Assemblywoman Malliotakis.

CHAIRWOMAN KRUEGER: Senator Brian Benjamin.

SENATOR BENJAMIN: Thank you, Commissioner, for being here. I have a couple of questions particularly focused around the connecting job seekers to jobs part of your job. And I'm very concerned about at-risk youth, and so I want to start off with asking a question about the Youth Tax Credit Program.

Is that program -- how is it doing? Is it oversubscribed, in terms of do you need more capacity with the tax credit? Or is it --

COMMISSIONER REARDON: I think it's working really well. You've increased it, I think last year or two years ago. So it's really -- it is a terrific program.

And as you know, the opportunity to connect an at-risk youth with a job is so impactful, because it gives -- think about how you were with your first job. You know, it opens a whole world of experience up to you. And for young people, sometimes they don't know that they have that capacity. So it's a great opportunity.

It's great for the business. They need workers, and it incentivizes them to hire the people who are right in their neighborhoods. I just think that -- it's not unlike the summer youth programs. These are really, really important.

SENATOR BENJAMIN: Do we have a sense that in some cases what we need to spend more resources on is job training or preparing for the jobs of the future? Or do you feel that sort of this tax credit program sort of helps people get that first job, and that job leads

to -- because one of the things we're very concerned about is not just having a job, but sort of a career.

And so I'm concerned about making sure that we're not just focused on getting that initial job and then they're there for a couple of months and they leave or what have you. How do we think about this from a sort of holistic standpoint?

COMMISSIONER REARDON: Thank you. That was one of my first questions when I came in as commissioner and looked at all of the stuff we do. And I had that question, are we -- it's one thing to make sure someone has the experience of working. That's very important. But we also want to make sure that training is available, that career paths are available. And we do a lot of that work in the Career Centers. We have an online tool, Career Zone, where young people can go in and do research on their own and say, you know, I want to do -- I want to work in the IT field, so you go in there and find that, and I live in Rochester, and you find that.

And then it can tell you what kinds of jobs are there, what the average salaries are, where the training in your area is available, whether it's a two-year college or a four-year college, an apprenticeship program. And they always come into the Career Center and have conversations with the career counselors.

It is a great question. Because I always tell people, it's one thing to have a job; it's a whole other thing to have a career.

SENATOR BENJAMIN: So moving on to the Unemployment Strike Force -- and I might have missed this, so I apologize if I'm asking you a question that you already answered. But can you talk about, just holistically, how the program is doing? Do you feel that it needs to grow in certain places? Are there extra resources that you believe are needed to do so?

Just give me a sense of sort of how it's working, how it's interlapping with the career centers, et cetera.

COMMISSIONER REARDON: So as the Assemblymember knows from the Bronx, we started there. And it was a huge success, continues to be a huge success. We --

SENATOR BENJAMIN: How do you define success? Help me understand that.

COMMISSIONER REARDON: So we put -- let's see. I have a number here, let me see if I can find it. I think it's 75 percent of the people who come in are connected to work. I'm not sure where that is, but it's a very -- it's a huge number.

We took the Bronx and then we patterned it in Western New York and Buffalo. And in Buffalo, we looked at -- Buffalo is an interesting case because the city itself is growing and expanding, its economy is growing, but they had zip codes where the meter was not moving. And in fact their unemployment numbers weren't that bad because people were not -- they were on the bench. They weren't even looking for work.

So those are the places that we went into. We connected with community groups,

with the churches. We outsourced our career counselors into the community. So I may not want to go into a state office to talk to somebody, but I might go into my church. We did that. We got a lot of support from the religious community in Buffalo. And the numbers are really striking. It really is impactful.

So we've taken that and we've patterned it in other high-poverty areas around the state.

But I want everybody to remember that the lessons that we learned in the Bronx and in Buffalo and in the other cities we're doing it, we take those lessons and we share it across the 96 Career Centers in the state. So it's not just oh, I've learned this thing in Buffalo and the people in, you know, Batavia don't know anything about it. We make sure that everybody knows the kinds of methods that we're using and how important it is to have that personal connection when someone comes in for help.

And any time a community group wants

to work with us, we're happy to do it, because that is a really critical part of connection.

SENATOR BENJAMIN: Sure. I'd love to talk to your office about Harlem and East Harlem. Particularly, we have a lot of public housing, and there are some employment issues. And so I would love to talk to your office about how we can bring that to my district.

COMMISSIONER REARDON: I would love to have that conversation.

SENATOR BENJAMIN: Thank you.

COMMISSIONER REARDON: Thank you.

CHAIRWOMAN KRUEGER: Thank you. The Senate is continuing, the Assembly is out.

Senator Diane Savino.

SENATOR SAVINO: Thank you, Senator Krueger.

Good morning, Commissioner.

COMMISSIONER REARDON: Good morning.

SENATOR SAVINO: I would just like to point out that with respect to the digital marketplace, the Senate actually has held two

hearings on this. And I know the Assembly did one as well. I know Senator Krueger is incredibly busy, so she probably didn't catch them. But we've discussed it pretty thoroughly with people on all sides of the issue.

So I do look forward to working with you, with the task force. Because I don't think it's as simple as people think either. You understand --

COMMISSIONER REARDON: We've talked about this.

SENATOR SAVINO: Right. We have had this conversation before. And I think it's important that we take a deep breath and do a deep dive and come up with what should be a clear set of rules so that everyone does understand who they are.

Because we don't want to wind up where California wound up. They started in a good place, but if we were to go down that road, it would be conceivable that your agency would be responsible for issuing exemption after exemption after exemption, which is

what happened in California. And as of today, they still don't have clarity as to who really is a digital marketplace worker.

And even with respect to that term, almost every industry now finds business through a digital marketplace. Whether you're a driver or you're an independent contractor, you're a home improvement contractor, there's lead generators -- we can go on and on.

So I just think we need to be careful and be thoughtful and come up with something that, one, makes sense and, two, you can enforce.

COMMISSIONER REARDON: Yes.

SENATOR SAVINO: On that note, you and I have discussed this over the years -- we've saddled you with the Wage Theft Prevention Act, with misclass in the construction industry, misclass in the trucking industry, the Domestic Worker Bill of Rights, the mold remediation licensing requirements.

And now, as you know, I'm very happy that the Governor signed the elevator safety

bill. We have a chapter amendment that still has yet to be adopted. But your agency is going to be responsible for the vast majority of approving of the training and making sure that this happens.

Do you believe, based on the current number of FTEs -- who have to handle all these other things and figure out the digital marketplace -- are you prepared to take on the additional responsibility of the Elevator Safety Act?

COMMISSIONER REARDON: That is a great question. Thank you. And we put a lot of thought into that particular bill, because at the beginning it was different than it is now. And thank you for the changes.

Look. We, like every commissioner who comes in front of you, all of us struggle with budget issues. It's not easy. And, you know, it's our responsibility to the citizens of the state, to the taxpayers, to use their money as wisely as we can.

That said, I am incredibly proud of the staff of the Department of Labor, and

particularly Worker Protection. They are so dedicated. And we have worked very hard to make sure that we support them appropriately. So we've been working with technology to make sure that, you know, they have the ability to be as efficient as possible when they're out in the field and cut down the number of times they have to come back to the office and do this (gesturing). You know, that's a time waste, and we don't want people to do that.

As these things come in, we make adjustments and we look at it. And I know that there's consideration when -- you know, do we need more staffing? That's actually part of those conversations.

Right now I think we're fine. But, you know, it is -- it's always an issue for all of us. I'd be silly to sit here and say I don't -- you know, that it's not. But these are amazingly well-trained individuals. We have hired a few more inspectors in the Work Protection area in the last couple of years.

SENATOR SAVINO: Good.

COMMISSIONER REARDON: And I'm proud of the work they do.

It is -- look, we live in an increasingly complex world. The digital marketplace is just one piece of it. Technology changes the way we do everything. And sometimes it makes it easier, and sometimes it makes it more complex. And it's really figuring out how do we fit into that, what's our role, how do we help employers be efficient with their employees, how do we protect workers on the job.

SENATOR SAVINO: And finally, in the few seconds I have left, with respect to the sick leave proposal -- so if you're a state work, a county worker, a city worker, their sick leave policies are in their collective bargaining agreement. And in citywide time and leave regulations, where they dictate the usage -- how you get to access that sick leave, whether or not you have to call in by a certain hour, how many days before you have to produce a doctor's note.

Do we anticipate requiring that in the

legislation, or are we going to allow employers, if we do this, to create their own sick leave policies?

COMMISSIONER REARDON: So you're right, the municipalities and the state have their own very elaborate plans. I -- right now I don't see it in the legislation, but I guess that's to be determined by you.

SENATOR SAVINO: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Senator James Sanders to close. Oh, excuse me, not to close. Senator James Sanders.

SENATOR SANDERS: I don't mind closing.

COMMISSIONER REARDON: Good morning.

SENATOR SANDERS: Good morning. Good morning, Commissioner. I'm sure you don't mind me closing either.

A question about the Workforce Development Office. How -- do you have any ideas how we can more successfully use this to get to the populations that we're not getting to, the unreached populations that

seem to be -- that we're not being able to get into the market?

COMMISSIONER REARDON: So we have worked very hard at the DOL -- and I know that the Office of Workforce Development is also focusing on exactly those questions.

Part of the issue is for the entity, the people that want to develop the training program, they need to understand they need to fill out an application for the funding, and there are guidelines. We have -- you know, we have a lot of information about that. Part of what we do on a pretty regular basis is reach out to community groups and talk about what is available, how you do it -- you know, what's entailed, what are the limitations for getting a CFA -- and work with people to understand that there is a process here and you have to follow it. But if you follow it, there's money, and you can train people.

It is -- the training programs are so critical. Because a skilled worker is always going to be more valuable in the workplace.

That's just -- that's the nature of work. And we are there to make sure that we have those opportunities for everybody -- not just the kid that can go to a four-year college and get a great degree, but everybody. And training is critical at every level.

We have -- one thing I talk about with people is we are now experiencing, pardon the expression, all of you who are in this -- I'm in it -- the silver tsunami. So the baby boomers are beginning to retire. And employers are seeing, Oh, my skilled workers are leaving, I don't have a skilled worker to plug into that job. So they're beginning to think differently about training pipelines. This is where apprenticeship comes in. This is where we say to young people: Here's a job path that might be really good for you, we want to talk to you about it.

And again, going back to the comment about not being able to find skilled tradespeople, for whatever reason, a lot of people think that working with your hands is -- doesn't make much money, doesn't have

status, whatever. Those are great jobs. If you're a skilled tradesperson in industry, you can make close to six figures pretty handily. And we need to help young people and their parents understand that those are great career paths that should be pursued by everybody.

SENATOR SANDERS: I have concerns over the effects of prevailing wage on the MWBE community. I hope that you can address that. And I also want to know how you think of the California model for the digital marketplace, and is this a good model for New York?

COMMISSIONER REARDON: So I am not intimately familiar with the ins and outs of the California law. I've heard sort of the macro version of it, and I've certainly read a lot of articles, you know, yea and nay. In the entertainment industry there's a lot of confusion right now, so I hear that.

I think, again, we need to look at New York and identify who the workers and the employers are in New York and then begin to develop our own regulations.

SENATOR SANDERS: Your thoughts on prevailing wage and its impact on the MWBE community?

COMMISSIONER REARDON: So the prevailing wage issue -- I think sometimes the MWBE conversation is that they are not signatory to a union contract. The prevailing wage law is about prevailing wage. It's not necessarily, by its very nature, a union contract. So that's a different conversation.

But the conversation really is can that employer compete at that level. That's really what it's all about. We work a lot with MWBE employers, and I'd be happy to have a conversation with you offline about specifics. I know there's some confusion about it. But it really is, do they -- are they capitalized enough to work at a high level or not?

SENATOR SANDERS: I look forward to that offline conversation. I'm concerned that your department may not be -- have the staff necessary to do all of these tasks that

you've been entrusted to do. How confident are you?

COMMISSIONER REARDON: So prevailing wage, we already have a public works department, and they have a work outline that they do -- you know, they have procedures that they follow. They're very good at it. This is just more of that. I don't think it's going to be all that different.

SENATOR SANDERS: Thank you very much.

CHAIRWOMAN KRUEGER: Thank you.

Senator Richard Funke.

SENATOR FUNKE: Thank you.

Thank you, Commissioner, for being here. (Mic off.)

COMMISSIONER REARDON: Good morning.

You're not on.

SENATOR FUNKE: I'll try one more.

Thank you, Commissioner.

COMMISSIONER REARDON: Collegial.

SENATOR FUNKE: I just have a couple of questions about your earlier statement.

You mentioned that the economy is good, and it is. I think those of us who

represent upstate New York may challenge you a little bit on some of that.

Of the 1.2 million private-sector jobs that were created, can you tell me how many were created in the Rochester area, for example? And if it's lagging behind, why it's lagging behind?

COMMISSIONER REARDON: So I don't know the actual numbers per region. I could find that out for you.

The thing that I always look at is when you look at the unemployment numbers across the state, every region has had a dropping unemployment rate year over year. And we have had 117 months, consecutive months of growth.

There's no question that the economy of New York State varies across the state. That's why the minimum wage law was tiered the way it was. And thank you for doing that, I think that's a very smart approach, because it's not a one-size-fits-all approach. And in Rochester, it's interesting, there are parts of Rochester

that are on fire, and then there are other parts of Rochester that are not.

So we have to look at how do we help the people in the areas of high unemployment in Rochester and help them find a career path, get the kind of training they need. There's a lot of new growth in Rochester. It's different -- it's a different economy and it's a different industry. There's a lot of tech coming in. And we need to make sure that the people who live in Rochester know that those jobs are coming and that they're prepared to walk into those jobs when they're there.

SENATOR FUNKE: Regionalizing the minimum wage was something that we fought for, and it is a good idea. However, it seems to me -- and correct me if I'm wrong -- that before it went to $12.50, there was going to be a study conducted by the Labor Department to talk about the impact on small businesses, what's the real impact -- how many businesses have closed, for example, because of that.

I have a manufacturing company in my community now that employs about 500 people, and they are seriously considering moving now because of the impact, the compression issue and so on. With regard to minimum wage and their bottom line and what has been taken away, that's a serious issue.

We have direct-care workers. We thought -- we thought, in our conference, that there would be a parallel path between fast food workers and others on the minimum wage front. And now fast food workers are ahead. And that's had an impact on direct care workers and how we retain them and keep them.

So my question, final question is, will you conduct a study, not only on that particular issue but how the farm bill may impact upstate farms as well going forward, to give us a clear idea of the impact of this?

COMMISSIONER REARDON: So my understanding was that before the minimum wage increase was green-lighted for upstate

last year, the DOB would do a study, and they did. And we concurred that the economy is robust.

There's no doubt that there is churn in these economies. There's no doubt that there are businesses that unfortunately decide to go somewhere else. But again, we have a real influx of new industry coming into the state.

In Utica there's a new project, Cree -- it's a nanotechnology company -- coming in. And one of the reasons they're coming here is because the gentleman who's the head of it, his wife is from the area. And that's why they came to see it. And they are -- it's a very exciting project. They are technical workers, and they've got -- this is a great example of being able to plan.

They've got about a two-and-a-half-year on-ramp, because they've got to build the plant. In that two and a half years, we're going to have the opportunity to go into the local worker pool and say, Here's

what you need to train in in order to qualify for a job at Cree.

And Cree has been wonderful about this. We're already figuring out where the programs are going to be, how we get people into them. That is an excellent example of planning and being able to keep the local population employed in the new employment picture.

So I understand that there are pressures. Our intent is to support the workers. But look, workers need employers. I always used to tell my members in my union, it's a symbiotic relationship. You know, they need you to make the movie and you need them to pay your check.

SENATOR FUNKE: Thanks, Commissioner.

CHAIRWOMAN KRUEGER: Thank you.

Senator Ramos to close.

SENATOR RAMOS: Thank you, Senator Krueger.

I did have a few more questions. I have one more about the formerly tipped-wage workers. Is the Department of Labor doing

anything to make sure that these workers are notified that they now have the right to make minimum wage?

COMMISSIONER REARDON: Oh, the miscellaneous, yes.

So there's a lot of outreach. It's one of the things that I'm really fond of doing myself, but our inspectors do it too, and the Career Centers -- everybody does it.

The first increase will be the June 30th or 31st -- is June a 30-day month? Whatever the last day of June is.

SENATOR RAMOS: But how are they being -- are you doing anything to notify them?

COMMISSIONER REARDON: Oh, we're working with them. We're working with advocates, we're working with the very people that came to the hearings. We're making sure that they are aware. And we're certainly notifying their employers, because their employers are the ones who have to adjust -- when we did the minimum-wage rollout, we had a very big campaign about it. And we're

doing a smaller version of that.

SENATOR RAMOS: Okay, great. I mean, just given that so many of those workers in those miscellaneous industries, if you will, very often don't speak English as their first language, if at all. So I do want to ask about your language access plan. Does it involve outreach for workers to know about language availability? Have you seen an influx of non-English speakers file complaints or make use of the materials that you provide?

COMMISSIONER REARDON: So we typically print everything we have in six languages. We have language access available in all the Career Centers.

If they're speaking a language that we don't have someone who's fluent in it, then we can get someone on the phone to translate for us. Our Department of Immigrant Policies and Affairs people, many of them are multilingual. And again, they also take all their materials printed in various languages.

If we're going to a community -- for

instance, there's a community of Bhutanese workers in Central New York -- we make sure that we have the availability to communicate with them in their language.

SENATOR RAMOS: Great.

COMMISSIONER REARDON: We take it very seriously.

SENATOR RAMOS: And of course many times these workers are undocumented. So with fear of employer retaliation, perhaps of outing them on their documentation status, would you be open to increasing the 180-day cutoff to file discrimination complaints?

COMMISSIONER REARDON: I'd have to have that conversation internally.

But, you know, we -- when we go out and work with workers, we don't ask their status. That's not our job. That is the job of the federal government, and that's not our business. And we make it abundantly clear to all the people that we work with, and particularly the advocates who work with them, that they should come in and talk to the Department of Labor, and we will -- you

know, we are not going -- we're not calling ICE, we're not asking for papers. That's not -- we couldn't enforce it if we did, so why would we do it?

If you have a problem, regardless of your status, you know, bring in your complaint and we will follow up.

SENATOR RAMOS: Thank you.

And lastly, I'm big on government transparency, and therefore FOILs. Can you tell us the status of various FOILs that have been requested from your agency? And can your agency commit to a status report on FOILs, either monthly or quarterly?

COMMISSIONER REARDON: I'm not -- you know, I don't know the status of individual FOILs. I'd have to know who's asking. But there's a process.

I think we -- didn't we --

SENATOR RAMOS: Do you know how many FOILs you fulfilled last year?

COMMISSIONER REARDON: No, I don't. I could get you that number.

SENATOR RAMOS: I would love to see

it.

COMMISSIONER REARDON: Sure.

SENATOR RAMOS: Would you be -- can you answer my question about committing to a status report?

COMMISSIONER REARDON: I'd have to have that conversation internally.

SENATOR RAMOS: Okay, thank you.

CHAIRWOMAN KRUEGER: Thank you.

Thank you very much, Commissioner, for your time this morning.

COMMISSIONER REARDON: Thank you very much. It's great to see all of you.

CHAIRWOMAN KRUEGER: Thank you.

And next up, New York State Department of Civil Service, Lola Brabham -- you'll pronounce it correctly for us -- acting commissioner.

ACTING COMMISSIONER BRABHAM: Good morning.

CHAIRWOMAN KRUEGER: Good morning.

When you're ready.

ACTING COMMISSIONER BRABHAM: Good morning, Chairwoman Krueger, Chairwoman

Weinstein, and distinguished members of the Senate Finance and Assembly Ways and Means Committees. My name is Lola Brabham, and I am honored to serve as the acting commissioner for the Department of Civil Service.

Thank you for the opportunity to comment on Governor Cuomo's Executive Budget for fiscal year 2021 as it relates to the Department of Civil Service, as well as to highlight some of the department's key accomplishments over the past year.

The Department of Civil Service is responsible for the administration of the civil service merit system and serves as the central human resource agency for state government. In this capacity, the department provides workforce management services to 70 Executive-controlled state agencies, serving approximately 150,000 employees.

In addition, the department is responsible for ensuring that state agencies and localities have the necessary talent to fulfill their core missions and to meet

high-priority workforce needs. Over the past year, the department has held approximately 6,000 civil service exams and tested more than 130,000 candidates for state and local positions.

The department continues to streamline the examination process through the use of technology and business process improvements. In 2019, the department collaborated with the Office of Information Technology Services to modernize the state's approach to test delivery. A new test management system has been designed and will be fully operational this year, which will streamline our examination process to be even more responsive to hiring needs.

The department remains committed to providing resources to assist with workforce development, including guidance to state agencies in using workforce analytics. Workforce analytics is a business intelligence tool that enables HR professionals to make evidence-based decisions on workforce and succession

planning.

Through the department's new Office of Diversity and Inclusion, the state is working at both the enterprise and agency levels to strengthen diversity, foster inclusive environments, and create pathways for better incorporating equal opportunity principles into the vital programs and services delivered to the public.

In 2019, a Strategic Plan for Statewide Diversity and Inclusion was created and distributed to state agencies to inform decision-making and enhance the competencies needed for building and sustaining a workforce that reflects the diversity of New York's communities.

At the same time, the department also began conducting comprehensive training to all State agencies under Executive control. The Department has trained more than 1,500 individuals on implicit bias and approximately 1,000 employees responsible for reasonable accommodation.

To create greater awareness and

interest in employment opportunities, the department participated in more than 250 outreach and recruitment events in 2019. These events complement the more targeted recruitment efforts of our state agency partners so that they have a pipeline of talent available to meet their hiring needs.

Another responsibility of the department is to provide oversight and guidance to 94 local civil service agencies responsible for approximately 360,000 employees. Over the past year, the department responded to more than 2,800 requests for technical assistance and trained more than 450 local government employees on topics related to merit system administration.

The department also remains focused on administering NYSHIP, one of the nation's largest health insurance programs. Through a variety of employee benefit programs available to state employees under statute or through collective bargaining, NYSHIP provides comprehensive coverage to more than

1.2 million state and local government employees, retirees, and their dependents.

In addition, the department remains engaged with the Workers' Compensation board and the Governor's Office of Employee Relations to deliver the state's Paid Family leave program to management/confidential employees. In 2019, the department expanded the benefit to include employees of the Division of Housing and Community Renewal, represented by District Council 37, employees of the Tug Hill Commission, Interest on Lawyers Account, and the Roswell Park Cancer Institute. We look forward to expanding this benefit to additional employees as agreements are made through the collective bargaining process.

The initiatives that I have highlighted today reflect the department's ongoing commitment to supporting strategic workforce needs. New Yorkers expect and deserve quality service from their state government, and we must continue to attract, hire, and retain a diverse and talented

workforce to meet that demand.

Thank you again for the opportunity to appear before you today, and I'm happy to address any questions you may have.

CHAIRWOMAN KRUEGER: Thank you.

First up, the Senate chair of the Civil Service and Something -- I always get the committee name wrong -- Andrew Gounardes.

ACTING COMMISSIONER BRABHAM: Good morning, Senator.

SENATOR GOUNARDES: Thank you. Good morning.

A couple of quick questions for you this morning. Number one, the Governor's proposed budget projects a reduction of more than 1,000 full-time employees in the state workforce. Can you tell us what that's attributed to?

ACTING COMMISSIONER BRABHAM: I'm sorry, you said one thousand --

SENATOR GOUNARDES: More than 1,000, I think it's about 1200 -- a reduction of about 1200 full-time employees in the projected budget. Can you give us any indication as to

what that --

ACTING COMMISSIONER BRABHAM: I'm sorry, I'm not familiar with any reductions. There are no reductions in force being contemplated in the state budget.

In fact, as I read it, there are actually some additions being made, and I do believe it's around a thousand. And some of that has to do with adding additional folks at the Department of Health that will be focused on Medicaid and holding down the cost of Medicaid. There are some positions associated with the new Office of Cannabis Management that is being contemplated.

SENATOR GOUNARDES: So there's no reductions projected --

ACTING COMMISSIONER BRABHAM: I'm not aware of the 1,000 figure that you're referring to. I will certainly --

SENATOR GOUNARDES: It's like 1200-plus. Okay. Okay.

ACTING COMMISSIONER BRABHAM: Yeah, I will certainly look into it, and we can get back to you on that.

SENATOR GOUNARDES: Okay, thank you.

Can you -- one of the things I've heard from a lot of state employees this past year as I've gone around to different worksites and visited them and talked with them is a consistent complaint across multiple agencies about positions -- about noncompetitive positions being created when there have been vacancies for competitive positions open.

So can you give us a sense as to how many exempt positions have been created over the past year with approval from the department?

ACTING COMMISSIONER BRABHAM: Well, I can tell you that exempt positions are -- there's roughly 3,000 exempt positions across all state government, and that represents less than 2 percent of the total workforce.

SENATOR GOUNARDES: And how many of those were created in the past year? Or what's the increase?

ACTING COMMISSIONER BRABHAM: I don't know the exact number of how many were

created in 2019, but we can certainly provide you with that.

SENATOR GOUNARDES: Because I went and I spoke with one employee who said that in their department alone, 36 positions were created in one year, just in their office. Which seems very high to make --

ACTING COMMISSIONER BRABHAM: Yeah, I find that highly doubtful, that 36 exempt positions were created in one department.

But I will remind you that -- and you mentioned at the beginning of your comments about competitive and noncompetitive positions, which are different from exempt positions. And I would like to say that Civil Service Law both allows for and supports the creation of noncompetitive positions when it is determined by the Civil Service Commission that a particular title is not able to be tested for on a competitive basis.

So there is an allowance in the law for the creation of noncompetitive positions, and it does not require that -- you mentioned

that an employee said well, non competitive positions are being created while, you know, there are perfectly capable people in the department. And that may be true, but there may be no association between the noncompetitive positions that are being created and the competencies of other individuals for other positions.

SENATOR GOUNARDES: Sure. I mean, I think a recurring theme that I've heard over and over again is positions not being filled and employees being asked to take on the workload of two or three employees who have been either retired or, through attrition, positions not being filled, and then seeing other slots being opened and created without any, you know, more equitable distribution of workload and work responsibilities.

So we can move on from this.

ACTING COMMISSIONER BRABHAM: Sure.

SENATOR GOUNARDES: I'd love to follow up with you outside of this hearing --

ACTING COMMISSIONER BRABHAM: We certainly will.

SENATOR GOUNARDES: -- and have a chance to really engage on some of these issues with you.

ACTING COMMISSIONER BRABHAM: Yes.

SENATOR GOUNARDES: Can you give us a sense, how many provisional employees are employed by the state currently?

ACTING COMMISSIONER BRABHAM: We currently have about 1600 provisional employees, which represents less than 1 percent of the state workforce.

SENATOR GOUNARDES: And how long have they been in that provisional status for?

ACTING COMMISSIONER BRABHAM: Provisional employees typically are not in a position for -- in provisional status for more than a year. The reason why people are placed in provisional status --

SENATOR GOUNARDES: No, I understand the reason why. But can you give us a sense as to, of that 1600, how many -- how long, on average? I know that they're not supposed to be more than a year. But are we in fact under a year, or are we more than a year or

are we two years, three years?

ACTING COMMISSIONER BRABHAM: I can't speak to all of the positions, but we can certainly provide you with a breakdown of how many have been less than a year and if there are any more than a year.

SENATOR GOUNARDES: Okay, that would be helpful.

And the same question for temporary employees. How many temporary employees do we have with the state workforce?

ACTING COMMISSIONER BRABHAM: We currently have about 7,000 employees that would fall in kind of the bucket of temporary positions.

And some of those individuals are hourly, some of those individuals only work seasonally. And some of those individuals are in temporary project jobs; they are state employees who are serving in a temporary capacity in another title to work on a project, essentially.

SENATOR GOUNARDES: Sure. And do we monitor how long -- I mean, how do we monitor

how long both provisional employees and temporary employees have that designation for? How do we track that?

ACTING COMMISSIONER BRABHAM: It depends on why someone is in a temporary status. For example, if it is a temporary project job, those jobs are approved for 18 months, and you must come back to the commission for an approval to extend the job beyond that period. So it really would depend upon why the individual is in the temporary status.

SENATOR GOUNARDES: Those are all the questions I have for now. I'll defer to my colleagues, and I may come back in a little bit. Thank you.

ACTING COMMISSIONER BRABHAM: Thank you, Senator.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: Assemblyman Ra.

ACTING COMMISSIONER BRABHAM: Good morning.

ASSEMBLYMAN RA: Thank you. Good

morning. I just wanted to ask you about a few of these proposals for retirement benefit reform. I know we've seen them in the past.

So just to start, do you know the total liability the state has for other post-employment benefits?

ACTING COMMISSIONER BRABHAM: I'm sorry, the liability has for --

ASSEMBLYMAN RA: The state's liability for post-employment benefits other --

ACTING COMMISSIONER BRABHAM: For which post-employment benefits?

ASSEMBLYMAN RA: -- you know, things of this nature other than pensions.

ACTING COMMISSIONER BRABHAM: For which post-employment benefits?

ASSEMBLYMAN RA: Just, I mean, in general. Or what the savings would be from these particular proposals.

ACTING COMMISSIONER BRABHAM: Okay. So there are two proposals in the Executive Budget that deal with the Medicare Part B premium for retirees. Is that what you're referring to?

ASSEMBLYMAN RA: Yes.

ACTING COMMISSIONER BRABHAM: Okay. The first proposal is commonly referred to as IRMAA, and that proposal deals with higher-income retirees who receive a supplemental Medicare Part B premium reimbursement. That reimbursement can range anywhere -- per individual, on an annual basis -- from $700 to up to $4,000, depending upon their income.

A higher-income retiree is defined as an individual making anywhere from $87,000 to $109,000. So this proposal recommends that we eliminate the supplemental reimbursement that goes to the higher-income retirees.

The sec -- I'm sorry, go ahead.

ASSEMBLYMAN RA: Do you know what the fiscal savings is from doing that?

ACTING COMMISSIONER BRABHAM: I don't have the number of savings. Last year we paid about 10,000 reimbursements to retirees. So we can get you a number on what that translates to in terms of dollars and cents.

ASSEMBLYMAN RA: Please. Okay.

ACTING COMMISSIONER BRABHAM: The second proposal has to do with the Medicare Part B base premium, which is $144 a month and goes to each retiree who is enrolled in Medicare. And this proposal recommends capping the base premium reimbursement at the 2020 level of $144 a month, and that any future increases be subject to budget negotiations.

And that would impact all of the retirees -- and you asked about the savings there. I think the budget contemplates approximately $2 million in savings in 2021, growing to about $12 million in 2022.

ASSEMBLYMAN RA: So do you know, would that number cover the monthly premium of current retirees?

ACTING COMMISSIONER BRABHAM: The number of retirees?

ASSEMBLYMAN RA: No, would that cover their premium? If we capped this number and it's not going to grow into the future, is that cover going to cover or is this going to create more out-of-pocket costs for those

retirees?

ACTING COMMISSIONER BRABHAM: If this proposal -- if this legislation was enacted, if this proposal went forward, it would be capped at $144. We don't know what future Medicare Part B premium costs would be; that's set by the federal government. But if it were to go up, again, that would be subject to budget negotiations in the future.

ASSEMBLYMAN RA: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Senator Richard Funke.

SENATOR FUNKE: Thank you.

ACTING COMMISSIONER BRABHAM: Good morning.

SENATOR FUNKE: Good morning, Commissioner.

The Assemblyman asked a couple of the questions that I was interested in as well. I just wondered, you said you don't know how many current retirees would be impacted by the state's discontinuation of the IRMAA subsidy payment. You don't know how many employees --

ACTING COMMISSIONER BRABHAM: No, what I said was -- is that last year we paid 10,000, and that we would certainly like to get back to what we anticipate paying this year.

SENATOR FUNKE: Okay.

ACTING COMMISSIONER BRABHAM: Okay?

SENATOR FUNKE: I always feel like you get --

ACTING COMMISSIONER BRABHAM: And on the Medicare Part B base premium, it would impact 168,000 state employees and 136 local government employees.

SENATOR FUNKE: I always feel like you get what you negotiate in life, so I become concerned when we start taking benefits away from retirees. Since the state requires retirees to enroll in Medicare Part B, I'm wondering if you think it's fair to freeze reimbursements to people now living on a fixed income.

ACTING COMMISSIONER BRABHAM: You know, Senator, we certainly understand the sensitivity of that. But the cost of

providing health insurance, whether it be to current employees or retirees, continues to rise, you know, on an annual basis, as you well know.

And what we seek to do is hold those healthcare costs down, and something that is going to be manageable for the state. But we certainly recognize the sensitivity of it.

SENATOR FUNKE: There's also a proposal that would not apply to individuals who are currently state employees. It does, however, set up a situation where individuals have different benefits in retirement which would depend upon the date that they're hired. Correct? So --

ACTING COMMISSIONER BRABHAM: If you're referring to the sliding scale --

SENATOR FUNKE: This is the sliding scale --

ACTING COMMISSIONER BRABHAM: Yes, the sliding scale proposal?

SENATOR FUNKE: Yeah.

ACTING COMMISSIONER BRABHAM: It would largely be driven by the number of years of

state service, similar to what we do with the pension benefit right now.

SENATOR FUNKE: Is the goal here to set up a new tier?

ACTING COMMISSIONER BRABHAM: No, the goal is to provide employee -- or retirement health insurance in relation to the number of years of state service. So the sliding scale would actually start at 10 years and increase by 2 percent every year as you go up to 30 years.

So an individual, say, who only worked for the state for 10 years would have 50 percent of their retiree health insurance costs covered by the state, and then on and on. You know, as I said, it would increase every years. And this is similar to what we do with the pension benefit now. The longer you work, the greater the benefit.

SENATOR FUNKE: Any consideration given to the fact that it may be more difficult to recruit and retain qualified employees with these proposals?

ACTING COMMISSIONER BRABHAM:

Actually, Senator, what we believe is that this would actually help us with retention. For those who are interested in having a robust, you know, retirement benefit, it would actually encourage people to work longer for the state.

SENATOR FUNKE: All right. Thank you.

ACTING COMMISSIONER BRABHAM: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Senator Seward.

SENATOR SEWARD: Senator Seward passes.

CHAIRWOMAN KRUEGER: Senator Seward passes.

Senator Gounardes for a closing --

SENATOR GOUNARDES: No, I'm good.

CHAIRWOMAN KRUEGER: You're good? Oh, okay. Assembly?

Then thank you very much for your time with us today.

ACTING COMMISSIONER BRABHAM: Thank you for your time today.

CHAIRWOMAN KRUEGER: Next up, Michael

Volforte, New York State Governor's Office of Employee Relations.

Good morning -- or afternoon. No, morning still.

DIRECTOR VOLFORTE: Good morning.

CHAIRWOMAN KRUEGER: Whenever you wish.

DIRECTOR VOLFORTE: Thank you very much.

Chairs Weinstein and Krueger and honorable members of the Assembly and Senate. My name is Michael Volforte, and I serve as the director of the Governor's Office of Employee Relations.

Thank you for the opportunity to address you on Governor Cuomo's Executive Budget proposal for fiscal year 2021 as it relates to the state workforce.

During the past year, the state concluded bargaining with three unions representing executive branch employees. The agreements reached continue to build upon the Governor's consistent theme -- fair compensation increases for our hardworking

and dedicated workforce, while maintaining fiscal discipline through benefit enhancements and changes to health insurance and ensuring that state agencies are enabled to deliver the services that they provide to the public. Negotiations continue with two more unions, which we hope to conclude in the coming months.

The state offers many negotiated benefit programs for executive branch employees resulting from a collaboration between the state and the unions that represent our employees. These programs are designed to increase employee productivity and morale by improving the quality of worklife for our employees.

Our Employee Assistance Program helped over 23,000 employees, and more than 30,000 employees are saving money through our pre-tax contribution programs that are healthcare, dependent care, transportation and adoption expense-related.

Through our labor-management collaboration, we've also distributed over

10,000 job-and-career-related tuition benefit reimbursements and trained the workforce in both instructor-led and online programs. We've also continued our commitment to a well-informed and advised workforce with our suite of mandatory training, which this year we will add training on safe mail handling.

Also, as part of the Governor's broad agenda to protect the LGBTQ community, cultural competency training regarding gender identity and expression will also be made available to all state employees. This will include updating other mandatory annual trainings to ensure that best practices for transgender and gender-nonconforming cultural competency are integrated into all our training.

Through all of these programs we are able to serve the workforce and provide assistance in maintaining quality of worklife and career advancement. We recently completed our first year of independently investigating complaints of protected-class employment discrimination and harassment in

executive branch agencies covered by Executive Order No. 187.

With our team, we are actively investigating complaints of discrimination and harassment in order to ensure that all allegations are investigated, individuals are advised of the result of that investigation, and appropriate action is taken in a timely manner against anyone found to have violated our policy.

The Governor has continued to be a strong supporter of public-sector unions and continues to build upon past initiatives to aid in their fight with the anti-labor movement working to expand the impact of the Supreme Court's Janus decision. In this year's budget, the Governor has proposed additional protections for unions, clarifying the intent of prior protection of personal information and expanding access to newly hired employees so they can learn about the benefits of union membership.

As we turn the page to the next fiscal year, the state's overall workforce remains

stable for the eighth consecutive year. There are no layoffs proposed in the Governor's budget. My office will continue to focus on negotiating the few outstanding collective bargaining agreements to bring them to a conclusion and expanding the development and education of the state workforce in order to enhance their skills and deliver the services needed to the public.

Given our past successes and our strong relationship with organized labor, I'm confident that we will embody the theme of the Governor's State of the State address: "Making Progress Happen." Thank you.

CHAIRWOMAN KRUEGER: Thank you.

First up, Senator Andrew Gounardes.

SENATOR GOUNARDES: Thank you.

Good morning. A couple of quick questions. Can you elaborate a little bit more on efforts being taken to help state workers with mental illness, mental health illness?

DIRECTOR VOLFORTE: Well, there -- as

part of the health insurance plan, we have a mental health and substance abuse component that employees can access, just like they can for other health insurance needs.

We also have an Employee Assistance Program, which is a resource and referral program that exists in all agencies. There's a labor/management committee that's organized to oversee it, and individuals in agencies are trained to be resources and referrals for individuals, where they can go confidentially and they can get information on where they can go for -- if they have mental health issues and a variety of other problems.

SENATOR GOUNARDES: Are we proactive in communicating that availability to workers, or is it more of a passive thing where it's just, you know, here's a phone number on a refrigerator in the break room type of thing? Or is it an actual -- people know it's there, there's active engagement on reaching out for assistance if you need help? Can you walk us through some of that?

DIRECTOR VOLFORTE: I think it's

both -- there are those passive elements that you described, but there's also many active elements. There are EAP and worklife services fairs where we make that information and individuals available.

And all of that occurs at the local level, so it's not anything that's put out from a central perspective where we have individuals going necessarily from Albany into the various regions. It's actually local employees who work with other local employees at the state level who are advising their coworkers of the availability of EAP.

SENATOR GOUNARDES: Okay. What do we do -- can you give us -- you know, we're very concerned about student debt and many people who are in public service, civil service who take on debt, whether they're teachers, firefighters, transit workers, office administrators, you know, agency workers, et cetera.

What can we do to communicate to our employees about student debt repayment options, whether on the private side or

public side? And how do we help them navigate that, if at all?

DIRECTOR VOLFORTE: I'm not aware of any programs that we have that -- because we're not in -- we don't have a role in student debt, student loans. But all of -- with most our unions we have very active and robust tuition reimbursement programs that are advertised to employees.

And as I said, we actually have distributed about 10,000 or so individual benefits where some of that is tuition-related in terms of where they can get actually tuition reimbursement or even a voucher to pay up-front costs if they're continuing their education and it's job-related.

Or we actually pay for training and development programs that maybe aren't degree-related but still have a cost to them that help them further their careers.

SENATOR GOUNARDES: Are you familiar with the Public Service Loan Forgiveness Program?

DIRECTOR VOLFORTE: Generally, yes.

SENATOR GOUNARDES: Okay. So a federal program passed 13 years ago that anyone who works in government or eligible public service occupation for 10 years and makes student loan payments can then have their federal loans forgiven. And it was designed in part to help incentivize and encourage people who are graduating to enter government service of any kind, enter public service of any kind.

And it has its issues, but I think a bigger problem is making sure that people know that it's an opportunity for them if they want to -- it's a way to attract and recruit new workers.

And so I think it would be smart, as a statewide commitment, we educate our workforce about the available of this program, if we want to make this a hospitable environment to work and not have to worry about the burden of student debt. This is like a lay-up, just to send a flyer out saying, hey, you're eligible, if you work

here for 10 years, here's an added bonus, you might be able to have your loans forgiven.

So I would strongly encourage you to think about developing something along those lines to help people know about the availability of a program like this, because it could make a difference for many, many people.

DIRECTOR VOLFORTE: I will do that.

SENATOR GOUNARDES: No other questions.

CHAIRWOMAN KRUEGER: Thank you.

Jim Seward.

SENATOR SEWARD: Thank you, Madam Chair.

And thank you, Director, for being here today.

You mention in your testimony that there are some pending labor contracts, negotiations for the next -- coming up for the next year.

DIRECTOR VOLFORTE: Yes. Yes, sir.

SENATOR SEWARD: You know, if we finalize a budget on March 31st and these

labor contracts are consummated after that date, where does the funding come from to fund these, assuming that there would be some increases in salaries and expenses for the state?

DIRECTOR VOLFORTE: As we've done with past agreements in recent history, while there may be appropriations tied to those increases, once we put forward a pay bill to implement them statutorily, the cost of those increases comes out of existing agency budgets, so we wouldn't anticipate requesting additional funds to cover those agreement costs.

SENATOR SEWARD: I see. Okay.

Do you anticipate either the minimum wage or pressure on the spending cap that the Governor talks about -- and I certainly support -- do you anticipate that these will have any impact on the timing of these contract negotiations?

DIRECTOR VOLFORTE: No, because we're already taking the state minimum wage that the Department of Labor sets and we're

applying it to the state workforce as they become -- each wage increase becomes structured in the law.

So we're already implementing that, in terms of that, so that's not really anything that we're -- that needs to be factored into negotiations. So I don't anticipate a delay or an effect on when we would conclude negotiations.

SENATOR SEWARD: We often hear concerns from our state workforce, particularly our PEF members and others, concerns that jobs are being shifted from, you know, state jobs to consultant service contracts. Do you know how many jobs have been shifted from, you know, the state workforce to these consulting service contracts within the last year?

DIRECTOR VOLFORTE: No. My office doesn't have that information. I know that there's generally available information that comes out with the budget on the scope of consultant services in the State of New York that state agencies have. I think the

Department of Budget -- the Division of Budget, excuse me, is required to put that out.

SENATOR SEWARD: So that doesn't channel at all through your office?

DIRECTOR VOLFORTE: No.

SENATOR SEWARD: Okay. Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Thank you very much for being with us today.

DIRECTOR VOLFORTE: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Okay, now our next testifier is Fran Turner, director of legislative and political action, Civil Service Employees Association, Local 1000. Hi, Fran.

And the rumor is we're going to be protested. So when they come in, if they come in, we'll just wait politely for them to hopefully be done quickly and not interrupt you too long.

MS. TURNER: Sounds good to me.

I do want to comment -- I always like going after Civil Service and GOER, because

they have a good perspective on things. But I'm sorry Senator Funke left, because I do want to comment on recruitment and retention.

Over the past probably four years, recruitment and retention in the state workforce has been very, very difficult, especially in our human resource areas, where we provide the services to the developmentally disabled and the mentally ill.

And I will say this. After listening to Commissioner Reardon, I could only wish that the state would have as robust a pipeline into finding these direct care workers and hooking them up where we need them. It's something that we really need to look at.

But now I want to get to the main crux of our testimony, because it's a little bit different this year. I agree with Mr. Volforte, the state workforce is pretty stable. But we don't see that stability under this proposed budget with the local government workforce.

You know, CSEA represents over 50 county government workers -- over 50 counties where we represent the workers, outside the City of New York. And the Governor's proposal on Medicaid is very concerning to us, because when you shift costs to local governments and then you tell them don't go beyond the tax cap -- which isn't even 2 percent -- and when you say that they're going to pay the growth in Medicaid to which they really have very, very little control, the local governments are left with how do we fill this gap, it's either raise taxes more or cut services.

Those services are provided by our CSEA members. They are the highway workers, they're the child protective workers, the social workers, and they're the Medicaid examiners that determine who is eligible, based on state and federal rules and regs, for Medicaid.

So I do want to talk about those Medicaid examiners, because I did hear in previous hearings that you held on Medicaid

that perhaps they aren't doing a very good asset search, okay, to enroll people in Medicaid. And I have to tell you, I can speak from personal experience from just a few months ago. Their asset search is so thorough that you and I may say it's a little bit annoying, because they check and recheck and require and require. And the mounds of paperwork that they go through to determine whether a person is eligible, based on state and federal law, is tremendous.

So they do their jobs, they sign people up. They don't have much more responsibility than that. They don't have control over the costs in Medicaid.

And I think we all agree that the biggest cost driver in Medicaid is long-term care. And if you're going to go to the biggest driver, you have to go there to look for the biggest savings. We're not saying that there probably can't be cost containment; we're saying that it's misplaced to look at the counties, who have very little control over cost containment.

One other point that needs to be brought up. While the counties do sign up people for Medicaid, our New York State Health Insurance Exchange actually signs up more. It's not the job of the counties. They go through the exchange to qualify and get enrolled in Medicaid. And then they go -- their care service is determined by the managed long-term-care companies.

So it really has no relationship to the counties, and there's really no movement for them or place for them to save any money to keep down the costs of the Medicaid program.

So we're concerned, because as I said, if you can't raise taxes, if you have to stay within an artificial cap of -- for growth, the only place left you have is services. And to cut services on the local level means you are going to put people out of work as well, because our members deliver those services.

So hopefully this needs to be looked at, and let's go where the money is. You

know, where they say follow the money, let's follow the money and figure out what is the cost driver and how we get the cost driver under control without hurting the services that we're responsible for providing to the citizens of the State of New York.

On a few other things on the state side, I do want to bring up one thing -- I'm sorry Senator Gounardes isn't here. The FTEs that he referred to, we believe a lot of that -- we know a lot of it is related to the proposed closures in Corrections. Now, last year the Governor did some closures, they were very orderly, people got redeployed. But it really is unfair to leave people questioning where are the facilities that we're going to close, why aren't we using the one-year notice -- which is a notice not just to the workers but to the communities that may feel an economic impact from the loss of the facility.

I'm blinking {timeclock beeping}.

But in any event, transparency is always good. Let's figure out how many --

what are we talking about so that we don't upset everybody across the State of New York, not knowing where these cuts may come from.

And I'm blinking, so your turn.

CHAIRWOMAN KRUEGER: Thank you.

Senator Jessica Ramos, chair of Labor.

SENATOR RAMOS: Oh, thank you so much.

No, I don't have any questions for you.

CHAIRWOMAN KRUEGER: Okay.

SENATOR RAMOS: Let me defer to Andrew.

CHAIRWOMAN KRUEGER: Andrew had to walk out for a little bit.

Go ahead.

CHAIRWOMAN WEINSTEIN: We were joined by Assemblywoman Griffin, and we go to Assemblyman Crespo for a question.

ASSEMBLYMAN CRESPO: Fran, just very quickly, the advocacy for childcare funding. I know you have it in your testimony. A lot of the anti-poverty hearings that we have done, two of the major issues that kept coming up were transportation access and

childcare access. And I've been meeting with a number of groups.

Is there a specific number that your organization feels we should be looking at in terms of the investment in childcare, and providing that it's one of the major barriers for those who are either trying to stay employed and/or those who want to be employed?

MS. TURNER: I couldn't give you a figure, Assemblyman. I can just say that access needs to be expanded, right?

If we want to keep people employed, access needs to be expanded. And for many counties, that's not going to happen, because there aren't enough resources to expand that access and get the childcare -- get people the childcare that they need.

I don't have an exact figure. We could look at it. But there's never enough money in childcare.

ASSEMBLYMAN CRESPO: Couldn't agree with you more. But just want to make sure we have it.

CHAIRWOMAN KRUEGER: Thank you.

Senator Jim Seward.

SENATOR SEWARD: Thank you, Madam Chair.

And Fran, it's good to see you again.

MS. TURNER: You as well.

SENATOR SEWARD: Just a quick comment. I want to thank you for your testimony. And certainly, you know, my conference and I are very concerned, as you are, and your members, about possible cost shifts in this budget -- you mentioned the Medicaid issue -- and any cost shifts to local governments, because that means on the backs of local taxpayers and impact on local workforce in delivering those important services on the part of local governments.

So we share those concerns, and we appreciate your testimony this morning.

MS. TURNER: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

I also want to thank you for your testimony. Helene Weinstein and I sit here every day listening to people come and

testify, and we sat through the healthcare hearing all day, and the mental health and hygiene hearing, and the things that you were pointing out about that, perhaps people aren't understanding the correlation between what triggers Medicaid cost growth, what does not, how little role there is in the counties.

And also what you were also touching on, that we now have large swaths of service provision where there's nobody to work because we have literally driven people away from the kinds of jobs we desperately needed to serve the most vulnerable New Yorkers. And I know that that has been a continuing message from you and your workers to us for many years.

So I appreciate your being, I suppose, in front of the trend. But you and I didn't want that trend, so --

MS. TURNER: No, not at all.

CHAIRWOMAN KRUEGER: So thank you.

CHAIRWOMAN WEINSTEIN: Ditto.

(Laughter.)

CHAIRWOMAN KRUEGER: Thank you very much, Fran.

MS. TURNER: Thank you.

CHAIRWOMAN KRUEGER: All right, our next testifier, Barbara Zaron, Organization of New York State Management Confidential Employees, along with Joseph Sano, perhaps.

MS. ZARON: Good morning still.

CHAIRWOMAN KRUEGER: Good morning.

MS. ZARON: Thank you all for the opportunity to come and speak to you about our concerns, our support for certain positions and our opposition to -- you probably know, because we've gone through this, this is probably the sixth year -- we absolutely oppose the Governor's proposals on retiree health insurance.

And one of the Assemblymen I think asked the question about the savings. I took the numbers out of the budget, and they're in this testimony, so you can refer to that.

We ask your support -- we have done this for several years now -- for our retiree pay parity bill. It passed the Senate this

past session. We certainly thank the Senate for that. It is now in Senate Finance going through towards passage, I hope, this year, and we're focusing our efforts in the Assembly to get additional support.

We asked that the Governor put it in his budget; he did not. So we're asking that you put it in your one-house budget bills.

The second thing that we support is Section W of the PPGG part of the budget, and that refers to what I think Mr. Volforte mentioned, the protection for unions. OMCE is technically not a union, but we do represent the management/confidential employees, and we would love to have those provisions extended to us in terms of being provided the information and making it official that we can participate in orientation programs where the agencies invite us to do so.

I'd just like to make a comment on Commissioner Brabham, and I think in response to a question, said there are approximately 3,000 exempt employees, approximately

2 percent of the workforce is in exempt-class positions, and 29 to 30 percent of M/C positions are in the exempt class.

So this is an issue that's dear to our hearts and very concerning to us, because we get requests that go through the Civil Service Department to convert competitive class positions to either noncompetitive or exempt positions. And we are very strong supporters of the merit and fitness-based civil service system, so we think that 30 percent of the M/C workforce being in exempt-class positions is excessive.

So I will leave it at that. You have my written testimony. If -- I'm available to meet with any of you in terms of answering questions or discussing these things further.

CHAIRWOMAN KRUEGER: Thank you.

We've been joined by Senator Mike Ranzenhofer and Senator Pat Ritchie.

And I'm just checking, do any Senators have any questions? Okay, I'm handing it over to the Assembly.

CHAIRWOMAN WEINSTEIN: We're good.

Thank you.

CHAIRWOMAN KRUEGER: And thank you very much, Barbara. You are always very good about getting around to each of us to make sure that you sit down and explain everything carefully. So appreciate that.

MS. ZARON: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

All right. Retired Public Employees Association, Edward Farrell.

Good morning. Hi.

MR. FARRELL: Thank you. Is it still morning? Very close.

Senator Krueger, Assemblywoman Weinstein, I represent the Retired Public Employees Association. We just celebrated our fiftieth anniversary. We represent the interests of the 500,000 retirees of the State and Local Retirement System.

Contrary to perception, 80 percent of the public retirees stay here in New York. And we contribute significantly to the economy, pumping in almost $12 billion annually. So we're a force in the New York

community. You know us. You see us at church, you see us at the senior center, you see us at all sorts of events. We're a fabric of the community.

I'm just going to make a few points about my testimony. When Medicare was created, New York decided it would be good to enroll eligible participants in Medicare because the state would save money. And that was back in 1966. And the state made the covenant with retirees at that time that said because we're saving money and you have to pay this additional premium, we're going to reimburse you. And even by reimbursing you, we're still going to save money.

And I want to point out, because not everyone realizes, retirees still pay the annual regular NYSHIP premium, as does everyone else, active employees.

Two specific proposals that were talked about earlier. Capping the reimbursement rate, we of course think it's a horrible idea. The current statute says that retirees will be reimbursed the standard

premium. It doesn't have a dollar amount. The Governor's proposal wants to put a dollar amount in statute.

And I take a little exception with what the president said earlier -- of Civil Service -- saying, Well, it's something we negotiate every year. Well, you can negotiate anything every year, but if you put this in statute and make it permanent, that's an additional hurdle for you, as the Legislature, to try and change existing law. So we point that out.

The cost of this is minimal. It's $2.2 million in the current financial plan, which is less than rounding error. But it's real numbers to real people, who would have to pay additional premiums.

The other is true with the IRMAA reimbursement, which some retirees are required to pay. The cost of that in the current fiscal year is also minimal -- $3.7 million. But they impact real people.

And you'll see there are just quotes from a few of the people who did submit

emails saying: I recently retired, I have an illness, I worked in Lower Manhattan, I'm now counting on my health benefits. This is when I really need them.

And there's another example from a couple, a husband and wife who had a combined service of 72 years of public service. Now they are retired, they get to the point where they've said, All right, we've put in our years, we've gone through a lagged payroll, we've gone through zero increases, we've gone through a lot of things. Now we're retired and we get hit with: Well, now we're going to cut your benefits.

So it's not just numbers, it impacts real lives.

So those are -- you've been supportive on these issues in the past, and we thank you. And we call for your support again. It's important to real people.

I'm just going to touch quickly on a couple of things that are not in the budget but have fiscal implications which we hope you would consider. And the first has to do

with access to skilled nursing facilities for retirees in the Empire Plan.

As I stated earlier, the state made a commitment when the state joined Medicare that any federal benefits would be in addition to what you were already getting, you would not be getting reduced benefits. But in this particular instance, retirees get zero benefits. If you're an active employee working for the State of New York, and not a retiree, obviously, and you had to go to one of these facilities, you could get 120 days at the facility fully reimbursed, paid for by the Empire Plan through your benefits.

If you are a retiree in the Empire Plan, the Empire Plan pays zero. You get no benefits. They said you get what Medicare gives you, which is 20 days of coverage. So it's 120 versus 20. And to qualify for the 20 days from Medicare, you have to stay three days in a hospital.

So this is the most egregious of the discrepancies. So I point that out.

There are quickly a couple of other

things -- survivor's benefits that have not been increased in 50 years, prescription drug reimbursement. M/Cs -- Barbara was here earlier, you know what that issue is, retirees who lost their increase in payroll and then had to retire.

So in closing, let me just say the Governor said he has to make these cuts to retirees because health benefits are increasing higher than 2 percent a year. Well, that's not a news flash. Retirees are not driving the increases in health insurance costs in the Empire Plan. We're part of it, we're integrated in with active employees. So it's not things that we are doing that's driving up costs. And to say we have to take these cuts because health insurance is increasing faster than 2 percent is a very weak argument.

CHAIRWOMAN KRUEGER: Thank you.

Senator Jim Seward.

SENATOR SEWARD: Thank you.

Very quickly, Ed, it's good to see you, and congratulations to your organization

on celebrating 50 years.

MR. FARRELL: Thank you.

SENATOR SEWARD: I just want to say thank you for the information you provided us. And also just make the point that many of us share your concerns about what you call breaking the covenant with retirees, relating to the capping of the Medicare reimbursement as well as eliminating the IRMAA reimbursement for certain retirees. We share those concerns. And hopefully we can make corrections in the Governor's proposal, as has been done in the past.

MR. FARRELL: Great. That would be wonderful.

And Senator Seward, it's been a pleasure working with you. I wish you the best.

SENATOR SEWARD: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: Assemblywoman Griffin.

ASSEMBLYWOMAN GRIFFIN: Thank you.

Good morning -- good afternoon, I guess we're close. I appreciate your testimony, and I -- especially when it comes to IRMAA. I represent 8021, and I have a lot of retirees call the office and are very concerned about changes in IRMAA.

One point of concern is the -- it says the high-income earners, it's defined in the budget as high-income earners will receive -- more will be deducted from them. And I wondered, how does that affect you and did you receive a schedule of income categories which show you who are the high-income earners as retirees?

MR. FARRELL: We do not know, nor does Civil Service know, because it comes off federal tax returns from two years ago.

ASSEMBLYWOMAN GRIFFIN: Okay.

MR. FARRELL: So it's not a deduction for the IRMAA cost. The retirees pay that cost up front. And then at the end of the year, you submit information to the Department of Civil Service and get reimbursed for what you've already paid.

ASSEMBLYWOMAN GRIFFIN: So at the present time you don't know what the categories are for who would be -- have to pay more, is that -- would that be correct?

MR. FARRELL: I'm not sure I understand the question.

ASSEMBLYWOMAN GRIFFIN: So how do you find out, like when it says -- when it categorizes the high-income earners, how does someone know if they're considered a high-income earner as a retiree?

MR. FARRELL: An individual would know because we send them information, to our members, and publicize it.

And as I said, it's based upon your adjusted gross federal income of two years ago. So it is not as easy a transition as you may think, that some people do get confused that they have to go back two years.

But Social Security does send you a statement at the end of each year which says what you received in payments and what you've made in IRMAA. So it is on the statement that you get annually.

ASSEMBLYWOMAN GRIFFIN: Okay. Thank you very much.

MR. FARRELL: You're welcome.

CHAIRWOMAN KRUEGER: Thank you.

I think we're done also. Thank you very much.

MR. FARRELL: Thank you very much.

CHAIRWOMAN KRUEGER: Thank you.

And our next testifier is a panel: Martha Ponge, of Manufacturers Association of Central New York, and also Harold King, Council of Industry.

Okay, are you both groups?

MS. PONGE: Yes.

CHAIRWOMAN KRUEGER: Did we get testimony from both of you? We think we only have one.

MS. PONGE: Just one.

CHAIRWOMAN KRUEGER: Just one. Perfect, thank you.

MS. PONGE: Thank you.

Good morning, distinguished members of the Finance and Ways and Means Committees, Finance Chair Krueger, Ways and Means Chair

Weinstein. My name is Martha Ponge, and the I'm the director of apprenticeship for the Manufacturers Association of Central New York. I'm joined by Manufacturing Alliance partner Harold King, president of the Council of Industry in the Hudson Valley.

We're here to advocate for the Manufacturers Intermediary Apprenticeship Program, known as MIAP. We're very grateful that the Legislature has supported this program for the past four years, but unfortunately the Governor's completely eliminates our funding.

Since 2016 we've grown our MIAP partners to seven regions in the state, and collectively we sponsor almost 30 trades. We've also worked very closely with the New York State Department of Labor and partnering companies to establish new trades in advanced manufacturing as well as IT trades.

Currently we have multiple trades under development in the areas of things like continuous improvement, non-destructive

testing, which continues our efforts to expand training to many nontraditional trades. Additional training outlines to be developed this year will support industry-driven sectors in the growing sectors of film, dairy and agriculture, computer gaming, auto, childcare, and the energy sector -- and, most recently, apprenticeships that support persons with disabilities.

In order to address the skill gap much earlier on, we've created a pilot pre-apprenticeship program with the Syracuse City School District, beginning in the ninth grade. This provides stackable credentials and allows students to go directly from high school to apprenticeships in manufacturing careers. This program is one of our first steps to raise awareness within school-age youth and their families, as well as expose them to alternative pathways that lead to meaningful careers in advanced manufacturing.

In Central New York, we have more than 50 companies actively participating in

apprenticeships. That's over 150 people who are being trained and supported. Harold's organization has over 100 individuals honing their technical skills. And our Rochester region has very similar numbers but is also very active in engaging in the development of youth apprenticeships.

In 2019 the enacted State Budget provided $750,000 in funding for MIAP. This appropriation aided the expansion of current regions and initiated our outreach on Long Island and in New York City. I'm very pleased to report that Long Island, which is home to over 3,000 manufacturers -- and 10,000 open positions -- has eight companies who have committed to establishing apprenticeship programs. That number was zero a year ago.

The momentum is growing across New York State. Both of these regions, Long Island and New York City, have the capacity to grow faster than any of the others to date, and it's imperative we continue to support their burgeoning efforts.

According to the United Way of New York State, the top 10 fastest-growing jobs have an average salary of $32,000 per year. In vast contrast, employees within advanced manufacturing make an average salary of over 71,000. These manufacturing jobs significantly raise household income and improve overall quality of life.

I believe now more than ever the time is right to invest in MIAP. MIAP has consistently afforded individuals a pathway out of poverty and access to springboard careers that eradicate the limits of their future income. With the flexibility of the New York State Registered Apprenticeship Program, we can meet individuals where they are and bring them to the skill levels required to attain and keep these good jobs.

There are over 50,000 open positions in high-demand, high-paying sectors in New York State. It's critical that we continue to bridge the gap between the individuals who want access to these jobs and the manufacturers in New York State that need

these individuals to remain competitive in the global market.

In order to continue the highly successful and very effective program we've created, and meet the growing needs across New York State, we are respectfully requesting a million dollars in funding to sustain and grow MIAP.

Thank you very much.

CHAIRWOMAN KRUEGER: Did you have more to add, or are you just --

MR. KING: No, I was here just to nod. She's done a great job.

(Laughter.)

MR. KING: And to say what she is doing in Central New York is happening in the Hudson Valley, and we're definitely trying to extend it across to other regions of the state.

CHAIRWOMAN KRUEGER: So just one question to pass along. Is the money that was cut out of the budget member-item money that was taken out of Department of Labor?

MS. PONGE: It was a legislative

add-in, yes.

CHAIRWOMAN KRUEGER: So it was a legislative add. So you're asking us to put it back and grow it.

MS. PONGE: Yes, please.

MR. KING: Yes, please.

CHAIRWOMAN KRUEGER: Thank you.

Assembly?

CHAIRWOMAN WEINSTEIN: We're okay.

CHAIRWOMAN KRUEGER: Senator Jim Seward.

SENATOR SEWARD: Just a quick question.

You know, we're continuing to hear about the decline in population, particularly in Central New York. I represent part of that region myself, in my district, and I know full well about that, and also the impact on our labor force because of that decline.

MS. PONGE: Absolutely.

SENATOR SEWARD: Can you -- you've been talking about workforce training and providing new skills for our labor force, and

I think the trend for internships and apprenticeships are very, very positive in that regard.

But can you give us an assessment overall of how we're doing in New York State in terms of workforce development and educating these -- our workforce?

MR. KING: I can kind of chime in. I've been involved in workforce development through our association in the Hudson Valley for the better part of 20 years, and it's a challenging job, particularly as we, for the better part of two decades, fought the perception that manufacturing was dark and dirty and dingy and not a good career path.

I think that's shifted. I think we're getting more people to understand that it is what advanced manufacturing is -- high-tech, high-paying jobs, high-value-added companies.

I do think, you know, that while it's getting better, there's still a lot of work to do. We've done a lot and I think this program has done a lot to connect existing infrastructure -- the community colleges, the

BOCES, the United Ways, other social service agencies -- to our member firms and get the word out that these jobs are available and that they are, as Martha said, not the $30,000-a-year jobs but the $75,000, $80,000-a-year jobs.

SENATOR SEWARD: Thank you.

CHAIRWOMAN KRUEGER: Thank you. All right, thank you very much for your testimony.

MS. PONGE: Thank you very much.

MR. KING: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Next up is a panel, Christina Fisher, Northeast executive director for TechNet, and two gig economy workers, Charlene DuBuque and Jonathan Aviles. And maybe they can explain the difference between being a gig worker and being something else, since that was an earlier discussion.

We've also been joined by Senator Robert Jackson.

Just to clarify the way we've set it up, so Christina would get five minutes and

then the two gig workers would split five minutes.

MS. FISHER: Okay. I actually probably don't need five minutes, if you want to give them a little extra time.

CHAIRWOMAN KRUEGER: Fine. Then we'll just move along and give the two workers more time to talk.

MS. FISHER: Perfect.

CHAIRWOMAN KRUEGER: Thank you.

MS. FISHER: Well, good morning. thank you for the opportunity to be here with you today. My name is Christina Fisher. I'm the executive director for the Northeast for TechNet.

TechNet is a national bipartisan organization of technology CEOs. We advocate at the 50-state and federal level on policies to advance the innovation economy.

I really appreciate the opportunity to be here to discuss this important issue and to discuss the needs of workers working outside of the traditional employee-employer dynamic.

We are entirely supportive of the conversation around the independent workforce, and we are committed to providing meaningful protections for workers, while being able to maintain the flexibility that they so desire and preserving their right to work when, where and how they want.

We would like to work collaboratively with the Governor's office, with the Legislature, with labor, with other members of the business community to address these issues, and we hope to do that through the task force envisioned by the Governor in his Executive Budget proposal. New York has a real opportunity here today during this legislative session to be a leader on this issue, and we hope that you'd continue to do so.

Technology has enabled a valuable new form of work that has enabled thousands of New Yorkers to be able to work flexibly, earn supplemental income --

CHAIRWOMAN KRUEGER: Would somebody close the door in the back?

Just because the people talking outside makes it hard for us to hear you, sorry.

MS. FISHER: No, it's okay. Thank you. I appreciate that.

SENATOR JACKSON: And please speak closer to the microphone.

MS. FISHER: Oh, sure, I'm sorry. I apologize.

So technology has enabled a valuable new form of work that has allowed thousands of New Yorkers to be able to work flexibly, earn supplemental income, and be able to build their business. We believe that it is not if we protect the worker, but how we do so in the era of flexible work, and not if we offer benefits, but how we do so in a way that offers the most good to the most number of people while also taking into account these flexible work arrangements.

This conversation is very important, and we hope to be able to continue to work with you all. And we are especially happy today to be here to be able to bring to you

two workers who work for different platforms who can share their specific experiences and will be able to tell you about how flexible work directly impacts their lives.

I'm happy to have with me today Charlene DuBuque, from Ballston Spa, and Jonathan Aviles, from Watertown, who will both talk about their experiences.

Charlene, do you want to go first?

MS. DUBUQUE: Hello, and thank you for your time today. My name is Charlene DuBuque, and --

CHAIRWOMAN KRUEGER: One second. What we'll do is we'll give each of you three minutes, because you didn't use your full five. Okay, so three minutes for this lady, and then we'll do three minutes more for the gentleman, and we'll ask questions of everybody afterwards.

MS. DUBUQUE: Okay, thank you.

Hello, and thank you for your time today. My name is Charlene DuBuque, and I'm a mom of four from Ballston Spa. I've been using the gig economy to supplement my

household's income for over 10 years now. By chance, I learned about VIPKid this summer, and the rest is history. Since then I've been on an amazing journey that's taken me on a virtual road trip across China, allowed me to pay off debt, and offered me the flexibility to care for my children on my own terms.

VIPKid is a digital platform that connects online teachers in North America with children in China who wish to learn English. There are over 100,000 teachers on the VIPKid platform, teaching over 700,000 students in China, and this number is only expected to grow. In New York State alone, over 3,000 teachers currently contract with VIPKid. Ninety percent of VIPKid teachers are women, and a good number are stay-at-home moms.

Here is my experience and why I'm passionate about VIPKid and what we do. First, the money is fantastic. Second, I love the experience of being able to connect with kids all the way in China. Many of

these students have become friends with my own children, and without VIPKid that experience would never have been possible.

But what I love best about VIPKid is the flexibility I have. I can pick my own hours and work as little or as much as I need to. Despite having a bachelor's and master's in history, I've been using the gig economy to supplement my household's income for years now. As the mother of a son with some significant mental health needs -- which at one point required a seven-week hospitalization -- a conventional full- or part-time job is not an option. I need to be available for medicine, doctor's appointments, and to maintain a reliable schedule.

Many mothers have a decision to make -- go to work and put your young children in daycare, or stay at home and forgo any income. Flexible work provides a third option for many of us -- being able to have nontraditional work with flexible scheduling.

This autonomy over my own schedule is what attracted me to VIPKid. I'm able to make money on my own time and under my own terms. If I want to pick up extra work to save for a trip or pay down student debt, I can do it. If I want to take a couple of weeks off or work a different gig, there's no penalty, and I pick up right where I left off. I don't want to be an employee. I value being my own boss.

I want people to see that flexible work provides more than just a gig opportunity. Stay-at-home moms like myself are gaining experience so, should we ever decide to return to conventional work, we have the skills needed to get back into things. With VIPKid, I can be an ESL teacher without the need for a computer programmer or franchise fee.

I'm provided a platform to market my unique teaching style to a large, established pool of future customers. The students I teach picked me, and they return to me because of the brand I've worked hard to

create and maintain.

A few months ago I was having lunch with a friend, and she said to me, "Charlene, you just seem happier." Though I've been with VIPKid only six months, the experience has really changed my family. We've been able pay off debt, and I just love what I do. I find value and pride in teaching.

I just want you to really consider how some of this legislation is going to affect mothers like me here in New York State.

Thank you for your time.

CHAIRWOMAN KRUEGER: Thank you.

Hi.

MR. AVILES: Hi. Good morning, or afternoon. My name is Jonathan Aviles. Thank you for your time today, Chair Krueger, Chair Weinstein, and members of the Senate and Assembly.

I particularly want to say good morning to Senator Patty Ritchie and Assemblymember Ken Blankenbush, my representatives in Watertown. I also want to thank Senator Diane Savino for paying

attention to people like me who work in the gig economy, which is what I'm going to talk about today.

I moved to upstate New York from North Carolina about a year and a half ago because I wanted to branch out and experience a new place. Back in North Carolina I'd worked as a manager at a restaurant chain, and so I started doing the same thing when I came here. For six months I started work at 4:30 in the morning and worked into the afternoon. I would get home and be so tired that I couldn't do anything else. And I had to be in bed by 7 or 8 to be able to make it to work on time the next morning.

The hours made it really tough for me to try to meet new people and to settle in my new home. My boss at the restaurant always expected us to go above and beyond at work, but never recognized those of us who worked especially hard.

I am a hard worker, and I've always felt that I have more to give. I wanted to be in a position where I could help the

franchise grow and grow as a person, but I eventually realized I wasn't going to get that opportunity there. I had to find something else.

So I did two things. I started building my own business in interior design, and I started delivering food through DoorDash in my spare time. I take pride in being an independent person, and the opportunity to work on my own schedule with DoorDash has meant a lot to me. Work is available for me at a moment's notice so I can dash when I have a free hour or just need a break from interior design.

Because I'm not tired all the time anymore, my life is more full. I have energy to pursue interior design professionally and to go shopping or spend time with friends. One of the best aspects is that it only takes me a few days of dashing to save money to go visit my family back in North Carolina, and I don't have to take a vacation to do that. I'm actually going there for two weeks in March, and I'll be able to dash on my free

time down there if I choose to.

Through DoorDash I have found a great way to make money that still allows me to pursue my other career interests, like interior design. When I'm dashing, I make sure to offer the best customer service. I am honored to have consistently earned top dasher status in my community, and it feels so great to be appreciated for all my effort.

I'm also a very social person. I have great relationships with the people that work at restaurants I deliver from a lot. I talk to other dashers about what it's like working with DoorDash, and I like to talk to people I meet while I make deliveries.

A few months ago I was on a delivery, I met a guy who was working as a delivery driver for Pizza Hut. He asked me about DoorDash and we talked about how it works and how you can make good money when you need it. He wanted to say thank you, because he had started working at DoorDash as well -- {timeclock beeping}. I'm sorry.

I just want to say I'm running my own

business every day, both when I design a room and when I make a delivery, and I hope you guys won't make me give that up.

Thank you all for your time.

CHAIRWOMAN KRUEGER: Thank you.

Senator Ramos.

(Off the record.)

SENATOR RAMOS: Hi, how are you? Good to see you again, Charlene. Thank you so much for your testimony.

I want to -- I have a few questions. First off, have you guys seen the Governor's proposed language in the budget to deal with the gig economy?

MS. FISHER: Yes, we have seen that language, and we are pleased that there is a task force that will be looking at these issues. And we hope to be part of that conversation as it moves forward.

SENATOR RAMOS: So you support the idea of a task force.

MS. FISHER: We are supportive of the task force, yes.

SENATOR RAMOS: Now, I constantly hear

in many of -- in all of my conversations with various different app workers, if you will, that they're worried about losing their flexibility in scheduling. I want to understand why that is. Who has threatened to take away your flexibility in scheduling?

MS. FISHER: So the conversation that we have been having here in New York and we've seen across the country is about changing -- reclassifying these workers to employees. And it is our concern that under that traditional employee-employer dynamic, that these workers will not be able to enjoy the flexibility that they deserve.

Under the traditional work environment, you don't get to go start working at Starbucks and then decide that you want to go run out in the middle of your shift to --

SENATOR RAMOS: Yeah, but I think that's actually something that everyone understands. I don't think anyone wants to take away the flexible -- your ability as a worker to control your schedule. Not even

organized labor. A whole entire industry, if you will, is predicated on the fact that people are able to make their own schedules, whether they're just supplementing their income or this is their full-time income. Right?

So I've had a lot of trouble with that narrative, because I don't think that anybody actually has that intention.

I want to ask the gentleman -- Jonathan Aviles, right?

MR. AVILES: Yes. Yes.

SENATOR RAMOS: Your experience working for DoorDash, how does that work for your car insurance payment, the wear on your car, the cost of doing business as a business owner, as you call yourself?

MR. AVILES: Well, I have I believe a good warranty with my car, and I think that that should be able to cover everything that comes with driving --

SENATOR RAMOS: But they don't.

MR. AVILES: I'm sorry?

SENATOR RAMOS: But they don't.

MR. AVILES: Oh.
SENATOR RAMOS: Or they do?
MR. AVILES: Well, from my understanding -- I don't know a lot about car warranties. But from the conversations I've had with my dealership, that if there was anything mechanical like engine failure or something with the brakes, that they would be able to fix that, or it would be covered under the warranty. So --
SENATOR RAMOS: But if something happens to your car -- so if you are making deliveries for DoorDash and you get into an accident and something happens to your car, it's covered by your insurance. Does DoorDash have any -- do they offer you any compensation for repairs or anything -- what do you do for health insurance?
MR. AVILES: Well, I -- I have health insurance through New York State, New York State Health is when I first got down here.
As far as car insurance, well, I did have that collision -- car insurance with my -- with my insurance capacity. I haven't

really looked into car insurance with DoorDash. I'm not really sure if they offer that. But it wasn't really my -- like my concern at the moment, because again, I already have insurance through my car insurance.

SENATOR RAMOS: When you pick up the food that you're going to deliver, do you enter the restaurant?

MR. AVILES: Yes, I do -- I think we are required to enter the restaurant to pick up our orders.

SENATOR RAMOS: And if you enter the restaurant and you slip and fall in the restaurant and something happens to you -- you twist your ankle, you break your ankle -- who's going to cover those medical bills if you didn't have health insurance from the state?

MR. AVILES: Well, I'm -- well, with the health insurance, I'm really not, like, familiar with -- with that aspect. All I know is, you know, health insurance is good to have always.

SENATOR RAMOS: I'm sorry, I don't mean to put you on the spot --

MR. AVILES: No, you're fine.

SENATOR RAMOS: For me it's much more like if you're getting hurt on the job, shouldn't you have access to workmen's compensation? You don't think you do?

MR. AVILES: Well, I'm more of like a -- I mean, this is only speaking for me. I'm a very careful person anywhere I go, so --

SENATOR RAMOS: Yeah, but stuff happens.

MR. AVILES: Yeah, stuff does happen.

SENATOR RAMOS: Stuff.

MR. AVILES: That's a really good point. But like I said, as -- right now, as my particular situation, I currently have health insurance, so I really can't speak on if other people don't have insurance and happen to have that.

SENATOR RAMOS: No, I hear that. And for me, that's what the conversation is largely about. I mean, I understand even

from speaking to Charlene -- and I'm sorry I'm not asking you questions, but it's largely because we've already met. You know, if you already have insurance -- the issue at hand to me is about making sure that everybody across the board has access to the same protections and not having to depend on their spouse for insurance, for example. You see what I'm saying?

MR. AVILES: Yeah. Absolutely.

CHAIRWOMAN KRUEGER: Thank you.

Senator Diane Savino. Oh, wait, the Assembly --

SENATOR SAVINO: Thank you, Senator Krueger.

Nice to see you, Christina. And I want to thank you for the work that you've been doing on this. I know you've spent a lot of time with myself, with Senator Sanders.

And I want to talk a bit, though, about the concept of flexibility, because I know that comes up regularly as a concern, that those who have found the ability to earn

extra income or all of their income through the digital marketplace, that that would be lost. And I just would like to hear your thoughts about how can we -- how can we find a way to see to it that you retain the flexibility but you provide the statutory protections that are extended to those who are in the traditional definition of an employee, the workers' comp, as it's been referenced, the unemployment insurance, coverage under the Human Rights Law.

Is there a pathway to be able to create that and still retain this new flexible workforce?

MS. FISHER: Thank you for that question. We absolutely do think that there is a path forward. And I wish I had a very specific detailed policy proposal for you today, but I think that is exactly why we're having the conversation through the task force proposed in the Governor's budget, and it's why we are so supportive of that conversation, as we do very much believe there is a way to do both -- to offer

protections to workers and maintain that flexibility.

And I just really do want to stress that, that we are not -- they're not one or the other. You can have both, and we are very supportive of having both. And we are very supportive of having this conversation and think it needs to be done thoughtfully. And we are -- one of the reasons why we're here today is just to make sure that these voices of these workers who enjoy that flexibility is being heard. And I think it's so important to the conversation moving forward, is that their voices are -- continue to be heard through this process.

SENATOR SAVINO: And with respect to the -- was it VIPKid?

MS. DUBUQUE: Yes.

SENATOR SAVINO: So that platform, is it more what we would call a lead generator where they match you -- so I need a teacher, right, and I go online to VIPKid and I tell them what I'm looking for.

And do they then give me your name and

other names to consider, and then you have a right to decide whether or not you want to take me on as a client?

MS. DUBUQUE: Pretty much. The parents pick us. So we are put onto the platform, we market ourselves through the platform, and the parents decide if they want to pick us as their teacher. And if they like us, they can keep booking us, and that's pretty much how it works.

SENATOR SAVINO: So I always refer to these things kind of like digital Pennysavers.

MS. DUBUQUE: Yes, absolutely.

SENATOR SAVINO: At least you know what a Pennysaver is. So many young people look at me like I'm crazy, like what's a Pennysaver?

So it's -- it's -- it's your ability to find more business through their marketplace.

As opposed to DoorDash, which is you're delivering food from multiple restaurants. But DoorDash finds you or you

find DoorDash? How does it work?

MR. AVILES: Well, the orders come in through our app. So once a customer places an order through the app, the app then confirms the order and then finds the nearest dasher that can fulfill that order.

SENATOR SAVINO: Can you turn it down?

MR. AVILES: You can, if -- if it's not somewhere that -- if it's too far for you or if it's not like a good restaurant for you to go to, then dashers do have the opportunity to decline that order. And it would go to the next dasher.

SENATOR SAVINO: My time is up. But thank you for your testimony, both of you. All three of you.

CHAIRWOMAN KRUEGER: Assemblymember --

CHAIRWOMAN WEINSTEIN: Assemblymember Crespo.

ASSEMBLYMAN CRESPO: Thank you.

How many hours, on average -- you said you do this supplementally -- do you work on the platform?

MS. DUBUQUE: On the VIPKid platform I

work around 10 to 20 hours per week. And I do other gig work, which -- I ran out of time so I wasn't able to talk about that.

ASSEMBLYMAN CRESPO: So -- and for you?

MR. AVILES: I do about 15 to 20 hours a week.

ASSEMBLYMAN CRESPO: A week.

MR. AVILES: Yes.

ASSEMBLYMAN CRESPO: And so look, I -- that's important, the question of whether the majority of the workforce is individuals like you who have a full-time position elsewhere and are doing this supplementally, versus those that may be now doing this full-time. You know, it's one of the things that we're grappling with.

And while just out of respect to the fact that I want to focus on budget items and we do have another hearing that's set to begin, I just want to let you know I appreciate the fact that you're both here, and I see other members of the industry that are here as well. It is important for us to

hear your voice in this conversation and your take on it.

Similarly, though, I just would encourage you to consider that for us it is not -- and I think something other colleagues have mentioned, we're trying to strike a right balance here. We want to make sure that everyone who is out there employed in any title or capacity has a right to protections that they deserve to have. We have, as a state, worked really hard to ensure that those protections exist, and there's a lot of businesses that are paying high costs to provide those services. And there may be ways to thread that needle and figure this out, and that will be a part of the conversation.

But your voice in this is important, and our efforts are just meant to make sure that you have the flexibility, whether that's in -- as an independent contractor, whether that's an employee who's working under an agreed-upon part-time sort of situation. The fact is we just to make sure you have all the

protections and the earnings and the safety net systems that are in place for others at your disposal as well. And that's something we're going to work towards.

But thank you for being here.

MR. AVILES: Thank you.

MS. DUBUQUE: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Senator Jim Seward.

SENATOR SEWARD: Thank you all for being here.

This is a fascinating topic. As one who was involved with the ridesharing and car sharing and other sharing aspects as -- when I chaired the Insurance Committee in the Senate, we got involved in these issues. And it's -- certainly the so-called gig economy is an emerging part of our economy.

Now, my question is regarding the number of gig workers that are out there. I would note I think in 2017 the U.S. Department of Labor -- these are national numbers -- said there were 10.6 million independent workers out there. More recently

there was a MetLife study which indicated that there were 45 million people involved as independent workers out there. That's a real challenge for us here in the Legislature as we try to fashion some sort of sensible employment legislation along these lines.

So my question is, how would you determine how many gig workers there actually are? And zero in particularly here in New York State. Is there a way to determine that?

MS. FISHER: I mean that's obviously not exactly an easy answer. Because sometimes people work for a few months at a gig economy job, some will work for years at a gig economy job. So the number is constantly in flux.

I don't have a number for you today. But I would be happy to try to see if we could help the Legislature find a more accurate number for New York.

SENATOR SEWARD: My question was sort of on the methodology. How would you come up with that number?

MS. FISHER: Well, I'm working with a coalition of -- I have several member companies within my organization, and I'm also working with a coalition on the ground that's trying to lend voices to this. So we're working with several gig economy companies, on-demand companies.

But this is a very broad group of people. You know, it's anything from a dog walker to a freelancer to a coder. So, you know, I will help -- try to work with those organizations to try to get you an accurate number.

SENATOR SEWARD: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Any other Assembly? No more Assembly.

Senator James Sanders to close.

SENATOR SANDERS: I'm your closer.

It's good to see you all. Thank you for coming up.

Christina, you may want to use a different mic. You're a little muddy there.

You were speaking of -- can you tell me the weaknesses of what you believe the

California model would be for New York?

MS. FISHER: Sure. The California model has resulted in significant uncertainty for a lot of workers. We've already seen a significant number of job loss as a result of the legislation, employees having to -- workers having to be reclassified --

SENATOR SANDERS: Use a different mic.

MS. FISHER: Sorry. Is that better? Sorry. So I'll start over.

California is a very difficult and complex model that we do not think is workable for New York. We've already seen significant job loss, consumer costs increasing.

What we really want here is for New York to be a leader in this space, as you have done so in the past with the Black Car Fund. This is not the first time that New York has thought outside of the box on these types of issues. So we're really supportive of how the Legislature and the Governor have already thought about this issue, and we just continue to look forward

to working with you on that.

SENATOR SANDERS: I have found it useful to hear from -- when I'm trying to figure out legislation, I have found it useful to hear from both sides. You have said that you guys are working on some type of the proposals that you believe would be useful?

MS. FISHER: We are -- yes, we're thinking about what is the right model for New York, and we're -- that's why we want to continue to participate in the task force as it moves forward. And we do very sincerely want to work with all parties involved and think about this collaboratively, because how we may view it may be different for somebody else. So that's why I think a task force is so important, because it gets all parties involved to sit down at the table and have that type of conversation.

SENATOR SANDERS: I'm very interested in this because as my colleague right above me said, there are people who are falling through the cracks, and we have an obligation

to ensure that those people are looked out for and have all of the rights that they should have.

At the same time, if there is a way of doing this without crippling an industry, without crippling a market, then this is good. So it would be very useful for you to come up with -- or you and your organization to come up with some proposals that we can see if it meets the need.

MS. FISHER: Absolutely. I'd be happy to do that. And I look forward to working with you further on this issue.

SENATOR SANDERS: I look forward to working with you and working with you all in the days to come. Thank you very much.

Thank you.

CHAIRWOMAN KRUEGER: Thank you. Thank you all very much for your time today.

MS. FISHER: Thank you.

MS. DUBUQUE: Thank you.

CHAIRWOMAN KRUEGER: Clearly these issues, as we discussed earlier in the day, need further discussion by the Legislature.

Our next testifier is Donna Liquori, Fight for Freelancers New York.

Good afternoon.

MS. LIQUORI: Hi. My name is Donna Liquori. I'm a freelance journalist and writer based near Albany. I'd like to thank the committee chairs, Senator Krueger and Assemblywoman Weinstein, for this opportunity.

I'm here to represent myself as well as an ad hoc grassroots organization. We call ourselves Fight for Freelancers New York. We're all New Yorkers, taxpayers, and contributors to the state's economy. I'm here to talk about the specific proposal in Section GGG about the task force that you all have been just talking about.

Our group sprung up when word of measures resembling AB5, which is California's law, were being considered for New York. And it's been a disaster. We're hearing that companies are simply dropping independent contractors rather than trying to understand the law. There have been a number

of lawsuits.

We urge you not to follow that path. AB5 has a lot of problems. If it was a good law, it wouldn't require carve-outs, it wouldn't require any of those things or additional legislation which I think is in process. There also have been a number of lawsuits, including one by the ASJA.

We're hearing, you know, real horror stories that whole art organizations are closing, writers are being blacklisted. Companies just don't want to try to interpret the law because it's so complicated. And that's really troublesome. Even in New Jersey and in New York we're hearing -- we're seeing ads for writers and they're saying we don't want anybody from Metro New York or California. So already just word of this possibility is affecting our industry.

I've been doing this pretty much most of my adult life. I've been a freelance writer doing contract work. It's worked out really well for me. I've also worked in --

I've taken full-time jobs occasionally, and I've been a shop steward for a union. So this is not -- you know, this has nothing to do with any anti-union sentiment. We just want to continue to work the way we've been working.

It's particularly important, I think, in New York because we're different, I believe, than the other states. We have this huge creative economy in New York, and that's really important. That's one of the reasons I live here. And we know that, through a survey by the Freelancers Union, that freelancers have contributed $31.4 billion -- and that's in one year -- to the economy in New York City. That's just New York City. Our group makes up people from all over the state.

We are -- we've kind of approached this by reaching out to the unions as well as legislators just to educate them. And one of the striking things that we see is that people don't really understand what we do or how we go about doing it. It's important to

note that because the work of freelancers is nuanced and difficult to understand if you haven't lived it.

So we want to be available for this task force. We want you to speak with us and learn about how we make our living, and represent us to ensure that there isn't another AB5 in New York.

Again, to recap, we know that the measures are directed at the so-called gig economy, and we know that the intentions are noble -- you want to protect people who are being exploited, and we all agree with that. We think that's important. But there's a huge fallout.

So I appreciate Senator Savino's comments earlier on how this needs to be very thoughtful. New York is very different than most other states.

And there's also federal legislation that mirrors AB5. The big problem we find with AB5 is that the ABC test, which is also included in the Governor's proposal, it's referenced, is very problematic. I'm not a

labor historian, but I do know that that test dates back to the 1930s. And as far as I know, there wasn't an internet or digital economy back then.

So I just ask that you, you know, consider us and also use us as a resource if there is a task force. And I'm here to answer any questions you may have.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Any questions, Senate? Diane Savino.

SENATOR SAVINO: Thank you.

Thank you, Donna, for your testimony.

You're not with the Freelancers Union, though, which is a separate --

MS. LIQUORI: I'm a member of the Freelancers Union, but I'm not speaking for them.

SENATOR SAVINO: You're not here on their behalf.

I'm going to be meeting with the new executive director, Rafael Espinal, next week to talk about this. And I just want to make the point that when we introduced this bill

last year, the first draft of the Dependent Worker Act, the most complaints we got -- I'm sure I can speak for Assemblyman Crespo -- was from freelancers, because they were afraid that they would get caught up in this.

So in California it's created a lot of consternation amongst the freelancers community, and in fact big companies like Vox Media just severed their contracts with more than 200 freelancers because there was this arbitrary decision that if you did more than 35 pieces a year, that you would be considered an employee of that.

What can we do to avoid capturing freelancers, who have been the original gig economy -- and happily -- for years? How do we keep you out of this mess?

MS. LIQUORI: Well, I would look at the ABC test. The prong that affects me the most is the B prong. It basically states that you can't do work that's similar to what the company does. And it's pretty hard, if you're working for a newspaper -- you know, I do work for newspapers. According to this

prong, I wouldn't be allowed to write. I'm a writer, I'm a journalist. I think that's what sparked the --

SENATOR SAVINO: Right.

MS. LIQUORI: So I would get rid of that. I think that's just very problematic for everybody.

The A prong is also problematic because it says that you can't take direction. And any editor-writer relationship that I've ever had, I've always gotten questions. That's what editing is all about.

So I would take a really close look at this ABC test. And I just think that we can do better than that. It's obviously not working, just by looking at California.

And the 35 article limit, I know that will -- it would hurt a lot of people who do, you know, a lot of quick-hit kind of things. Sometimes people do that much in a week or two. So I felt that that was very arbitrary, and that lacked understanding. So my suggestion would be to learn as much as

possible about the industry.

SENATOR SAVINO: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

We're going to -- there are more questions, but we're going to ask you to leave so we can move on, because we're a half-hour late for the next hearing.

MS. LIQUORI: Thank you.

CHAIRWOMAN KRUEGER: And our last but very important testifier is Patrick Lyons, legislation director, New York State Public Employees Federation.

Just in case anyone forgot, this is the workforce development hearing for the State of New York.

MR. LYONS: Good morning.

CHAIRWOMAN KRUEGER: Thank you. Good afternoon.

MR. LYONS: Good morning, Chairpersons Krueger and Weinstein and distinguished members of the committees. My name is Patrick Lyons. I'm the legislative director at the New York State Public Employees Federation. I'm joined by our legislative

representative Scott Lorey. Our president, Wayne Spence, sends his regards and his regrets on not being able to attend today's hearing.

As you can see from our formal comments, we have identified significant shortcomings in this year's Executive Budget proposal. However, given our limited time, I would like to focus on just a couple of issues that require your immediate attention.

First, as you have been hearing in your districts, our members are feeling overwhelmed, overworked, underappreciated and understaffed, and that is due in large part from the flat budgets that we have had over the past many years as well the continued move to privatize the public services that they provide.

In this budget the Governor continues a disturbing trend of using private and not-for-profit entities to do the work that was once performed by state employees. And we feel as though continuing to divert these resources away from state agencies that

provide critical services to the residents and taxpayers of the state is detrimental to our taxpayers, to our clients, to our members, and to taxpayers in general.

The state currently spends more than a billion dollars -- that's with a b -- annually on more than 8200 full-time consultants. At the same time, in this year's Executive Budget, the Executive Budget calls for the elimination of more than 1300 state positions.

We thank you and your colleagues for your continued support for legislation to require cost/benefit analyses be conducted before state agencies enter into outside agreements for services. Conducting these analyses should be a standard operating procedure for all state agencies, and we're hopeful that, working together, we can encourage the Governor to sign this important legislation this session.

We encourage you to increase the financial support for the state agencies so that they can once again provide the critical

services that they provide to our residents in a cost-effective manner.

A second proposal in the Executive Budget that we find disturbing is the proposal to greatly expand the provisions of the current design-build program. That would award a single contract to a single entity for both the design and construction of a project. This proposal expands the number of agencies that would be eligible for that proposal and also makes the program permanent.

Design-build allows for the privatization of public work that has been traditionally performed by state employees. These important projects require oversight in order to protect taxpayers and New Yorkers. The current design-build program puts extraordinary responsibility in the hands of developers who are seeking to maximize their bottom lines, and that is why taxpayers need representation during the design, construction and approval phases for all taxpayer projects.

Our engineers are prepared to represent the interests of taxpayers and to ensure that projects are designed correctly, utilize materials appropriate to the project, and meet the highest safety standards upon completion.

One only needs to look at the issues with the Big Dig in Boston or the recent whistleblower revelations regarding the potential use of faulty bolts on the Governor Mario Cuomo Bridge to understand the importance of having state engineers involved in these projects.

We also take note that legislation recently enacted for the City of New York was designed to ensure that city engineers are there to inspect all design projects in the city. We would like to see this safeguard expanded to include state engineers in all phases of the project -- design, construction and inspection.

Another area of major concern in this year's Executive Budget is the introduction of this type of design-build proposal in the

Office of Information Technology Services. This proposal circumvents traditional design and approval processes and removes safeguards against fraud and abuse.

OITS was created to put the state's technology platforms under a single entity to develop, implement and provide a continuity of service for the state's ongoing IT needs. The state should maximize its limited resources by developing the long-term human capital and technological infrastructure to design, implement and maintain these systems in-house. We believe that OITS should use existing staff and expand its staff to meet these critical needs.

In the state operations budget, the executive again requests $1.59 million to train state employees on IT systems for the express purpose of "ensuring that the state's information technology needs can be met by state employees." This money has never been spent in the three years it has been allocated.

Our request is that we expand that

pool of resources and make it available to the workers so that they can develop this capacity in-house.

Another troubling proposal in this Executive Budget is the closure of the DOCCS facilities. Fran Turner mentioned that earlier. We have not seen a plan on what is going to transpire with these closures. We feel as though the year of planning is important for communities, for our members, and for the clients and inmates that they serve, so that we have a transition plan that's appropriate. And we see no compelling reason to change this existing standard.

Lastly, the Executive also seeks to achieve budgetary savings by cutting promised health insurance benefits to retirees as well as for new state workers hired after a certain date. Cuts to promised benefits, coupled with the continued downsizing, outsourcing and privatization of public services, only serves to demoralize the state workforce.

In sum, we look forward to working

with you to reject these proposals, and to strengthen the state civil service system to ensure that the state workforce is there to provide the needed services and ensure the efficient and effective use of state tax dollars.

Thank you for your time and your continued support. I'm happy to answer any questions that you might have.

CHAIRWOMAN KRUEGER: Thank you.

I don't think we have any questions for you, but we carefully follow up with you on your testimony, and appreciate your being here. And say hello to your executive.

We are now closing the Workforce Development hearing. We are going to let people who were here for the first hearing leave. We are going to let Senators and Assemblymembers who aren't staying for Housing to leave. Many have already shown up, I feel, for Housing.

(Discussion off the record.)

CHAIRWOMAN KRUEGER: We're going to ask you to take one or two questions from

Senator Jackson.

I apologize, Senator Jackson.

MR. LYONS: Of course.

SENATOR JACKSON: Let me thank you for coming in. I was a state employee from 1975 to 1980, then I went to go work for PEF for 23 years. So let me thank you for your service, and please communicate with our president, Wayne Spence, that I think he's doing a great job in representing the PS&T unit of the State of New York.

But with respect to the budget, do you feel that there's enough right now in the Executive Budget to address the issues and concerns that you have raised in your testimony?

MR. LYONS: We feel as though there is room for improvement in terms of the agency budgets. We've been watching the testimony during the course of the week. I think the agency heads were not able to be very forthcoming in terms of the needs that they have and in terms of the resources that are available, and we feel as though additional

resources are needed to enhance the services provided through the agencies.

SENATOR JACKSON: Now, you had mentioned in your testimony about the design-build and the fact that PEF has hundreds of engineers in order to do the type of work that is necessary, but it seems as though the Governor wants to contract out to others in the business.

Do you think that -- I believe the contract says that they must use state employees first before they contract out? Do you know about that?

MR. LYONS: I believe the design-build is separate and apart from that and they don't necessarily need to use state engineers on those projects.

SENATOR JACKSON: Do you think that putting in legislation that mandates that state employees be used first may be the appropriate way in order to ensure that the state uses its employees to carry out the work?

MR. LYONS: Absolutely. The state

employees should be the first opportunity for these kinds of projects. And at a minimum, the taxpayers need to have representation on these projects to make sure that they're being handled appropriately.

SENATOR JACKSON: Now, looking at the SUNY hospitals, I see in your testimony that you are asking that the $87 million subsidy be restored. Now, you understand, as far as the budget, there's about a $6.2 billion deficit with about $4 billion of Medicaid.

MR. LYONS: Yes.

SENATOR JACKSON: How would the Medicaid situation impact SUNY hospitals and the members that you represent?

MR. LYONS: I don't have the answer to that handy, but I can certainly follow up with your office on that. We're asking for the additional resources to make sure that they're still operational because of the important function that they serve in their communities.

SENATOR JACKSON: I want to thank you for coming in and giving your testimony, you

and the leader of PEF.

MR. LYONS: Thank you, Senator.

SENATOR JACKSON: Thank you, Madam Chair.

CHAIRWOMAN KRUEGER: Thank you. And I'm sorry I didn't see you before, Mr. Jackson.

All right, now we are officially done with the Workforce Development hearing.

If everybody who was here for this hearing and doesn't want to hang out, wants to leave, we need about five minutes to transition the tech material between the Senate and the Assembly. The Assembly runs the Housing hearing, and we do see many of our colleagues from both houses. We'll be introducing you when the next hearing starts. It might be a good leg-stretch minute or two.

(Whereupon, at 12:35 p.m., the budget hearing concluded.)