NEW YORK JOINT SENATE AND STATE ASSEMBLY

SENATE STANDING COMMITTEE ON LABOR
SENATE STANDING COMMITTEE ON BANKS
SENATE STANDING COMMITTEE ON INVESTIGATIONS AND GOVERNMENT OPERATIONS

ASSEMBLY STANDING COMMITTEE ON LABOR
ASSEMBLY STANDING COMMITTEE ON BANKS
ASSEMBLY STANDING COMMITTEE ON OVERSIGHT, ANALYSIS AND INVESTIGATION

PUBLIC VIRTUAL HEARING

IMPACT OF COVID-19 ON THE WORKFORCE

August 13, 2020

10:00 a.m. - 11:00 p.m.

Joint Hearing COVID Impact on Workforce, 8-13-20

SENATORS PRESENT:

SENATOR JESSICA RAMOS,
Chair, Senate Standing Committee on Labor

SENATOR JAMES SANDERS,
Chair, Senate Standing Committee on Banks

SENATOR JAMES SKOUFIS,
Chair, Senate Standing Committee on Investigations and Government Operations

SENATOR JOHN LIU

SENATOR ANDREW GOUNARDES

SENATOR GEORGE BORELLO

SENATOR DIANE SAVINO

SENATOR MONICA MARTINEZ

SENATOR PATRICK GALLIVAN

SENATOR JAMES TEDISCO

SENATOR ROBERT JACKSON

SENATOR DAPHNE JORDAN

SENATOR TODD KAMINSKY

SENATOR GUSTAVO RIVERA

SENATOR SHELLEY MAYER

SENATOR JEN METZGER

SENATOR THOMAS O'MARA

SENATOR BRAD HOYLMAN

Joint Hearing COVID Impact on Workforce, 8-13-20

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Chair, Assembly Standing Committee on Banks

ASSEMBLY MEMBER JOHN MCDONALD,
Chair, Assembly Standing Committee on Oversight,
Analysis and Investigation

ASSEMBLY MEMBER MARIANNE BUTTENSCHON

ASSEMBLY MEMBER BRIAN MANKTELOW

ASSEMBLY MEMBER HARRY BRONSON

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ASSEMBLY MEMBER CARMEN DE LA ROSA

ASSEMBLY MEMBER CATALINA CRUZ

ASSEMBLY MEMBER N. NICK PERRY

ASSEMBLY MEMBER YUH-LINE NIOU

INDEX

PANEL 1:

Roberta Reardon
Commissioner
New York State Department of Labor

PANEL 2:

Karen Cacace 128
Labor Bureau Chief
New York State Office of the Attorney General

PANEL 3:

Mario Cilento
President
New York State AFL-CIO

Mike Neidl
Legislative Director
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PANEL 4:

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President
New York State Public Employees Federation

Pat Kane, RN
Executive Director
New York State Nurses Association

PANEL 5:

Ron Busby
President & CEO
U.S. Black Chambers, Inc.

Ken Pokalsky 261
Vice President
The Business Council of New York State, Inc.

Melinda Mack 266
Executive Director
New York Association of Training and Employment Professionals

PANEL 6:

Robert W. Newell, Jr., 296
President
United Food and Commercial Workers Union Local 1500

Amanda Jensen
Policy and Legislative Coordinator
New York State Laborers' Union

Jared Trujillo 306
President
Association for Legal Aid Attorneys, UAW 2325

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PANEL 7:

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Joint Hearing COVID Impact on Workforce, 8-13-20

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Worker

Gaela Solo
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PANEL 9:

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PANEL 10:

Richard Winsten
State and Broadway, Inc.

PANEL 11:

Deborah Axt
Co-Executive Director
Make the Road New York

Carlyn Cowen
Chief Policy and Public Affairs Officer
Chinese-American Planning Council

Diana Moreno
Programs Director
New Immigrant Community Empowerment

PANEL 12:

Charlene Obernauer 483
Executive Director
New York Committee for Occupational Safety and Health

Rebecca Miller
Deputy Legislative & Political Director
Communication Workers of America District 1

Maritza Silva-Farrell
Executive Director
ALIGN: The Alliance for a Greater New York

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Joint Hearing COVID Impact on Workforce, 8-13-20

(The public hearing commenced at 10:00 a.m.)

SENATOR JESSICA RAMOS, CHAIR, SENATE STANDING COMMITTEE ON LABOR: Okay. Well, good morning everyone. My name is Jessica Ramos, I am the state senator representing District 13 in Queens and I also have the honor of chairing the Senate Committee on Labor. Today, we will be holding a workforce development hearing so that we can better understand how COVID impacted New York workers. And I'm very glad we are joined by many of my colleagues, including Senator Skoufis, Senator Liu, Senator Jordan, Senator O'Mara, Senator Serino, Senator Borello, Senator Martinez, Senator Gounardes, Senator Tedisco and Senator Jackson and I hope I didn't miss any of my colleagues. Raise your hand if you're missing.

But, the importance of this hearing is really critical to figuring out how we can prevent some of the confusion and lack of resources that we saw in the responsiveness to the crisis of New Yorkers trying to access their benefits. And that's why we are all here today,

Joint Hearing COVID Impact on Workforce, 8-13-20

to hear from not only the Department of Labor, but many other entities, so that we can figure out how we can work better, make sure that we're protecting our workers not only with unemployment insurance and other benefits, but making sure that they've been provided with PPE and other protections in light of, well, the disaster that COVID wreaked in our state, unfortunately.

Right now, as of June, the statewide unemployment rate is at 15.7 percent. Needless to say that my colleagues here and I, and my colleagues from the assembly, who you will meet in a second, will be working in lockstep to ensure that we are fighting for New Yorkers, that we're rebuilding our economy in a responsible way and that we are putting our New Yorkers and workers first. So with that, I want to kick it off to my colleague from the New York State Assembly and he is the chair of the Oversight Committee, and that is Assemblyman John McDonald.

ASSEMBLY MEMBER JOHN MCDONALD, CHAIR, ASSEMBLY STANDING COMMITTEE ON OVERSIGHT, ANALYSIS AND INVESTIGATION: Thank you, senator,

Joint Hearing COVID Impact on Workforce, 8-13-20

and good morning to everybody. And I'm also joined by our co-chair, another co-chair, the Chair of Banking, Tom Abinanti. As many of you may know, the labor chair position is currently vacant, but be not afraid, there are many dedicated and trusted staff that are following every single word and moment of testimony today to make sure all thoughts and concerns and solutions are captured properly.

What I'd like to do first of all is recognize our colleagues in the assembly that have joined us today, Marianne Buttenschon, Harry Bronson, Jo Anne Simon, Joe DeStefano, Kevin Byrne, Robert Smullen, ranker Bryan Manktelow and I think that's it for now. Anybody who hasn't been recognized, follow the senator's lead and raise your hand.

Just a little bit of process today. We have 14 panels, which is an awful lot of panels. And it's important because we have a lot to hear and a lot to consume, and therefore we are going to move along in an appropriate process that we've been working on the last couple of days

Joint Hearing COVID Impact on Workforce, 8-13-20

with 31 hours of testimony on nursing homes. Each panelist will be given five minutes to speak and it's a hard five, I'll be very clear. Each chair and each ranker will also be given five minutes for questions and responses, and then members of the respective committees that are hosting this event will have three minutes for questions. Be not afraid if you don't get your questions in or if you're not one of those committees. Please feel free to forward to the senator or myself your questions your questions and comments and we will make sure to get them to the appropriate entities, and to ensure a timely response within a couple of weeks from when that letter is sent.

I think that's it. The only thing that I want to share before we get started and turn it back to the senator is Dick Gottfried, who is our health chair has a nice little comment that he talks about. Because we expect to go for a period of time, so after three hours we will take a break for what he calls ambulation and toileting. Being a healthcare professional, I want to add nutrition to that, so ambulation, toileting and

nutrition will be in three hours, give or take. And we'll give you a heads up and that way those who are watching can plan their day accordingly, so senator, back to you to introduce our first panel.

SENATOR RAMOS: Thank you, assemblyman. I want to add one more point of information for our colleagues, and that is if you do wish to be recognized, make sure to use the raise hand function on Zoom, so that way we can put you in the queue. And with that, our first panel, which is a member of one, is our Department of Labor commissioner, Roberta Reardon, who now has five minutes to testify before we begin questions. Thank you.

MS. ROBERTA REARDON, COMMISSIONER, NEW YORK STATE DEPARTMENT OF LABOR: Good morning And thank you for inviting me today. I'd like to especially thank the chairs and distinguished members of each committee for convening this hearing, so could I speak directly with you about the unprecedented challenges the Department of Labor has been facing over the last five months.

And the emergency measures we have taken to get money into the hands of unemployed New Yorkers during this crucial time.

As you know, we are in the midst of a crisis no one saw coming. Every state has experienced an historic surge in unemployment claims and every state systems have been pushed to the limit by this pandemic. However, in New York we have moved faster and more aggressively than any other state in the nation to get much needed benefits into the hands of unemployed New Yorkers.

To give you some context about this crisis, since the COVID-19 pandemic began in early March, the Department of Labor has paid almost $40 billion in unemployment benefits to more than 3.3 million New Yorkers in just over five months. In 2019, we paid just $2.1 billion in total. In that context, we have paid over 18 years worth of benefits in just over five months.

That's staggering and sobering. Before this pandemic, the highest number of new unemployment claims in one week nationally was

Joint Hearing COVID Impact on Workforce, 8-13-20

695,000 in October of 1982. During the height of this crisis, we saw one week with 6.8 million new claims. That means this economic crisis is greater than anything the United States has seen since the Great Depression and every state is struggling. In fact, we have seen 20 straight weeks with over one million national unemployment claims. And these numbers are simply unheard of.

The surge of applications crashed on New York like a wave, pushing our systems to the brink. In a typical week before the current crisis, our call center averaged about 50,000 calls. But during the peak week in late March, our call center received over 8.2 million phone calls, a 16,000 percent increase. And our website, which typically received 350,000 hits during the course of a week, received over six million visits one week an increased 1,600 percent.

As this wave was crashing over New York, we immediately began to address these issues with real time technology updates including building and launching a new online unemployment

application backed by Google cloud technology. To free up our phone lines, we launched a callback initiative and we increased the number of DOL representatives making outgoing calls, answering incoming calls and processing applications from 400 to over 7,000.

We were able to do that because of our incredible state workforce. Thousands of state workers came from other state agencies to join us in this massive effort. We also expanded call center and online filing hours to seven days a week. And despite cumbersome federal guidelines, we updated our online application to provide a seamless experience for pandemic unemployment assistance applicants on April 20th, weeks ahead of other major states.

We have launched new proactive communication initiatives to keep New Yorkers informed throughout the process. This included identifying the number one reason why unemployment applications go into partial status, which was an incorrect or missing federal employer identification number. We issued a

directive to all New York based businesses reminding of their legal obligations to provide employees this information. We also took steps to proactively inform New Yorkers that they must submit a federally required certification each week to receive their benefits. And we rolled out a new online system to help them quickly and efficiently submit previous weeks' certifications. Through the automated system and DocuSign technology, they can now be done much faster.

In addition we launched another tool, which has directly contacted millions of New Yorkers via e-mail and text messages as their applications moved through each step of the process. We've also implemented an automated chat bot on our website to answer New Yorkers most frequently asked questions. And lastly, we've introduced a triage phone system that better connects unemployed New Yorkers with the help they need.

We did everything within our power and authority to cut through the bureaucratic red

tape and get New Yorkers their benefits as quickly as possible. However, we are bound by specific federal laws and regulations to safeguard against fraud. Thanks to the proactive efforts of agency investigators and the strong protections built into our application system, the New York State Department of Labor has identified over 42,200 fraudulent claims during the COVID-19 crisis and stopped fraudsters from stealing over $1 billion in taxpayer money.

We knew very early on in the crisis the workplace was going to be forever changed. As people return to work, there is an underlying fear of safety in the workplace as it relates to COVID-19. To educate employers about the their responsibility to keep their employees and their businesses safe, we established our DOL COVID complaint portal. If any New Yorkers feels unsafe or has another COVID related workplace concern, they can file a complaint right on our website at labor.ny.gov/covidcomplaint. We've had over 30,000 complaints to the portal and the vast majority of complaints are resolved quickly and

voluntarily.

Now that New York is moving forward through the reopening process, we want to help connect every job seeker in New York with the right job opportunity. We are sending proactive recruitment e-mails and encouraging both businesses in need of workers and in New Yorkers in need of a job to take advantage of our jobs express web website at jobs.ny.Gov. There are over 1,000 [unintelligible] [00:11:27]

ASSEMBLY MEMBER MCDONALD: Commissio

we need you to wrap it up, so we can get on to questions.

COMMISSIONER REARDON: Okay. I'm right

there, concluding.

ASSEMBLY MEMBER MCDONALD: Thank you

COMMISSIONER REARDON: Okay. Personall

these last five months have been heartbreaking on many levels. We have dedicated every resource we have to helping New Yorkers weather this storm. Many of your staffs were right there with us on the front lines and I sincerely thank you for your efforts. And I just want to take a moment to

say how proud I am of my staff, who has worked tireless throughout the pandemic while also trying to navigate this crisis within their own families. They continue to work overtime and they will continue working until this crisis has passed.

We have all worked endlessly, seven days a week around the clock to get the job done and we will continue to do whatever is necessary to help all New Yorkers get through this crisis. Now I'm happy to take your questions.

SENATOR RAMOS: Thank you for your testimony, Commissioner Reardon, thanks for joining us this morning, it's good to see you. Can you tell us a little bit about the return to work guide that was posted by the Department of Labor, which was a little misleading considering that we weren't exactly promoting people or urging people to return to work per se, states that only employers with public facing workers have to supply face masks, which violates section 193 of the Labor Law. How does this address co-workers transferring COVID to each other and

Joint Hearing COVID Impact on Workforce, 8-13-20

can't non-public facing workers transfer COVID as well?

COMMISSIONER REARDON: So I'm looking for a little guidance from my staff here. I'm not quite sure what you are referring to. We do have the COVID complaint form up on the website and that's for anybody, whether they're public facing or not. If you have a concern about your workplace, if you feel that your employer is not properly sanitizing the workplace or offering the kinds of protections that are required, you should go on the COVID website and register your complaint and we will follow up. There is guidance about what everybody has to do, wear masks, wash your hands, make sure the area is sanitized and I'm actually not clear which direction.

It's on your website, it's called the return to work guide.

COMMISSIONER REARDON: So, I don't ha my website on in front of me. Can I get back to you in a minute? I'm going to have somebody give me some information about it.

Joint Hearing COVID Impact on Workforce, 8-13-20

SENATOR RAMOS: Sure. So, in the meantime, can you tell us about what the Department of Labor is doing to protect workers from wage theft during the pandemic?

COMMISSIONER REARDON: As always, our inspectors are out and ready to go inspect if somebody thinks that their wages are being stolen. We have an online application for that and of course they can always call the number that is registered for wage fraud issues and we have followed up during the pandemic. There, our investigators have been very busy. Obviously, they are working remotely as much as possible. It's very difficult for them to go to work sites, as it is difficult for workers to go to work sites. But they're following up and we are continuing to enforce the laws as we always do.

SENATOR RAMOS: So, I'm assuming that you're working closely together with OSHA of course, to make sure that workplaces are as compliant as possible. Can you tell us what the process --

COMMISSIONER REARDON: To be clear, we

don't enforce the OSHA regulations. We do it for public health, but the private industries are overseen by the federal government.

SENATOR RAMOS: Right. Okay. So can you tell us when complaints are received about an unsafe workplace, what happens then? What is the process for that?

COMMISSIONER REARDON: So the investigators follow up. They talk to the worker who has lodged the complaint, they contact the employer to see what the situation is and as I said in my testimony, the overwhelming majority of those cases are resolved quickly and voluntarily. We have had very few people resist making changes in order to ensure that their businesses are safe. I mean, remember, it is in a business owner's best interest to have a safe workplace. They don't want to harm their workers and frankly they don't want to depress their business.

SENATOR RAMOS: But we also know that there are unscrupulous employers who will cut corners at any opportunity --

COMMISSIONER REARDON: We've always h
that.

SENATOR RAMOS: -- because they largely see many workers, especially undocumented people, as disposable, unfortunately, and we've seen this in the construction industry. So unfortunately that's not always the case. But I do -- I wanted to move on and ask how workers are being educated about their right to refuse unsuitable or unsafe work so that they can remain eligible for unemployment benefits.

COMMISSIONER REARDON: So if a worke
feels that they are being put in an unsafe position, they can apply for pandemic unemployment assistance, which is specifically for COVID reasons and they have to say that they're turning down this job because of a COVID reason and then they can apply for the benefits and they can get the benefits. That does not mean that a worker can say I have a generalized fear of COVID. That is not an allowable instance in order to collect benefits. But if they feel they're being put in harm's way, if they have a

medical condition, if they have a person in their home that they have to take care of who would be endangered by this, then they the absolutely are eligible to receive their benefits.

MS. RAMOS: Okay, and then we have a few minutes left. I don't want to start talking about this. So can you talk about the possible expansion or why it would be important to expand partial UI during the pandemic. I know obvious will I we have received some guidance from the federal administration. Now is that new guidance going to be implemented or what concerns are there at the state level?

COMMISSIONER REARDON: So I think partial unemployment, you mean being able to work and collect at the same time, having a day or two of employment and then also collecting unemployment benefits? So there are currently regulations in New York State governing that. There is a ratio the first day I think you lose 25 percent of the benefit and goes down from there until you reach the max.

There is also a program that we have

Joint Hearing COVID Impact on Workforce, 8-13-20

called shared work that an employer registers for and it allows them to have their workers return to work at a reduced schedule. They file a plan with the Department of Labor, we approve it and those workers are able to follow the plan and they can receive partial unemployment under the shared work program and maintain connection with the employer. Remember that a lot of these regulations are federal laws that cover how people receive their benefits.

SENATOR RAMOS: Thank you, commissioner. I will now yield to Assemblyman McDonald for his questions.

ASSEMBLY MEMBER MCDONALD: Thank you senator, and commissioner good morning and thank you for joining us.

COMMISSIONER REARDON: Good morning.

ASSEMBLY MEMBER MCDONALD: Actually, just want to pick up on a quick point towards the end. The shared work program, that's actually been in effect for a long period of time, correct.

COMMISSIONER REARDON: Mm-hmm.

Joint Hearing COVID Impact on Workforce, 8-13-20

ASSEMBLY MEMBER MCDONALD: Are you a

to measure how much participation in the past, but also how much now?

COMMISSIONER REARDON: I don't have th

figure for past engagements. I know during the last recession it was a very valuable tool for a lot of employers. Right now, we have 88,000 workers enrolled in the shared work program. It is 100 percent federally covered, so it's a wonderful program for employers. And as I said, it allows, you know, what is happening with a lot of businesses are people coming back at half speed. They don't have enough work to keep everybody 100 percent employed. And this way, you can keep them.

ASSEMBLY MEMBER MCDONALD: And speal

since you said 100 percent federally covered, overall with employment and all the other benefits, what is the total cost? What is the state on the hook for at this stage of the game?

COMMISSIONER REARDON: So the numbers

are really staggering. The benefits paid from March through August of 2020 is $40.0 billion,

but remember that almost three-quarters of that money is federal money. FPUC, the $600 is totally federally covered, some of the emergency extensions are totally covered, so that the part of state UI is much smaller. We are on a federal loan at this point, it is interest free. And that is not unusual, I think many, many, many states if not all states are now in a loan status because of the pandemic.

ASSEMBLY MEMBER MCDONALD: Well, obviously there has been a lot of discussion about the process and a lot of the headaches that everybody, whether it's the department, your staff who really are, have done yeoman's work in a difficult situation and of course the ones we're most concerned about, our constituents, the people who are struggling and suffering. What is the current backlog of unemployment claims as of this moment and compare that to what it was at the peak.

COMMISSIONER REARDON: So, I'm very happy to say right now we don't really have a backlog. Anything that's three weeks old or newer

from three weeks back to now is not a backlog. It essentially takes three weeks to fully process the average claim. Some people go through in a week, some people go in three weeks, so we say three weeks. There are pockets of people who are waiting for adjudication. There are pockets of people who have identity issues and we have to further identified who they are and we're needing documents, people with foreign work certifications, also we need to get copies of those, so there are issues. Sometimes people have holds on their claims but it is not a large number of people.

And remember that all of these things are done. We carefully look at all of these filings because of the fraud issue. So we've stopped over a billion dollars worth of fraud from going out the door.

ASSEMBLY MEMBER MCDONALD: That is a very eye opening number. I'm sure there will be more information shared with all of us probably as we are going through this hearing today. That's remarkable.

COMMISSIONER REARDON: Yes.

ASSEMBLY MEMBER MCDONALD: Absolute
remarkable. You know, what's been interesting about this financial crisis, and it's a good thing is that traditional workers were able to go through process but in the past, independent contractors, gig workers were never really allowed this benefit and actually initially they were all like, thank God. But the process has been a little bit problematic, I would think you would admit.

Could you walk us through the challenges that we dealt with in that because -- and the other thing is are we getting cooperation from the gig companies in regard to providing necessary information?

COMMISSIONER REARDON: So we all remember the pandemic started in early March. The Federal CARES Act was not passed until March 27th and we did not get federal guidance on how to administer it, which meant we couldn't do anything until April 5. That CARES Act is what established pandemic unemployment assistance and

that is the form of benefit that's available for people who have COVID reasons for not being employed, but also for people who don't have regular W-2 employment.

We had to stand up a new benefit system, as I say to people, it looks like UI, it talks like UI, it's not UI. So we had to figure out with a mainframe system, how to get this into the coding so the machine could process it. All of that took a certain amount of time. But we also had to reach out to a community over a million workers who now were able to apply for this benefit, most of whom had never been in UI before. They had no idea what to expect. They were afraid. They were desperate, they were locked in their homes, they were afraid to go outside, they had no work. It created a huge amount of anxiety for people. Everybody in the system thought they had to call us. And that was one of the first problems we had. As you know, our phone systems went down repeatedly because they just couldn't sustain, we had over a million phone calls a day.

Joint Hearing COVID Impact on Workforce, 8-13-20

ASSEMBLY MEMBER MCDONALD: Thank you commissioner. Being a moderator, I have to be respectful of the time because the members will get on us. Senator, back to your team.

SENATOR RAMOS: All right. Thank you Assemblyman McDonald. Next, we have my colleague Senator James Skoufis.

SENATOR JAMES SKOUFIS, CHAIR, SENATE STANDING COMMITTEE ON INVESTIGATIONS AND GOVERNMENT OPERATIONS: Okay. Thank you and thank you, commissioner for your appearance today and answering our questions, nice to see you. And I do want to acknowledge and thank all the really tremendous work, the enormous undertaking that the Department of Labor has been involved in over the past five months or so.

But I do want to drill down into some things and your testimony certain, it's important to highlight all of the challenges and the, quite frankly, the achievements of the department over these many months. But I think it did gloss over some of the associated pain that our constituents received and were on the receiving end of,

especially early on in March, April and May. And I know this and I know all my colleagues know this because we were getting all these calls, too.

COMMISSIONER REARDON: Yes.

SENATOR SKOUFIS: You know, my office, we assisted over 4,000 constituents with unemployment issues, liaising with your department. And so, if I may, so March 22nd, nonessential workers were directed to stay home. I suspect that is really when the crush began, at or around that time, as businesses, workplaces were closing. Yet the large majority, as far as I could tell, of the improvements that were made to the system didn't occur until May and correct me if I'm wrong, so DOL Servers working with Google were at four. I think they scaled up to 60 or a little more than 60.

COMMISSIONER REARDON: Sixty-five I think.

SENATOR SKOUFIS: It was my understanding that DOL reps went from 400 to a little over 3,000. You had mentioned 7,000 in

Joint Hearing COVID Impact on Workforce, 8-13-20

your testimony, so I'm not sure which it is, but it scaled up tremendously either way. Can you, as it stands now on August 13, do we still have those 60 plus servers?

COMMISSIONER REARDON: Oh yes.

SENATOR SKOUFIS: Yes?

COMMISSIONER REARDON: Oh, yes, I mean out of --

SENATOR SKOUFIS: How many of the thousands of additional DOL reps are still either employed or contracted with, as it stands today?

COMMISSIONER REARDON: We still have, let me see if I actually have the hard number here. We went up to 7,000 in total, and right now we have 4,500.

SENATOR SKOUFIS: Okay.

COMMISSIONER REARDON: And that includ other workers within the DOL, who do other parts of the agency. They've all been trained to do UI work as well as, you know, the vendors that we also brought on board. Let me take one --

SENATOR SKOUFIS: Presumably that number will, as we continue to move through the pandemic

and all continues to go well, presumably those numbers will continue to go down.

COMMISSIONER REARDON: We hope.

SENATOR SKOUFIS: And you'll return to maybe not 300 or 400 but somewhere in that ballpark. And so my question is, looking forward here, it took months to scale up to where you are and where you needed to be, as people waited months and months themselves to get benefits, they're out of work, they and many simply didn't know how to make ends meet. And so, what sort of confidence can you give us that it will not take two months again to scale up, get to where you need to be and, you know, if we have a second wave, some people think the second wave might be worse than the first wave. God help us.

Does the economy shut down again and do we have the same exact situation? We can't be going through the same motions where our offices are getting calls with people crying on the other end because they can't even get a call back from DOL after two, two-and-a-half, three months of waiting?

Joint Hearing COVID Impact on Workforce, 8-13-20

COMMISSIONER REARDON: So let me just point out 75 percent of all the claims that came in since the beginning of the pandemic, 3.3 million claims, 75 percent of those claims never had to talk to an agent at all. They went into the computer system, they were handled by the computer system and they received their benefits.

SENATOR SKOUFIS: Yeah, but respectfully with 25 percent of the literally millions is still an enormous number.

COMMISSIONER REARDON: [unintelligible [00:28:20] got handled immediately. That says to me that something was working even though it wasn't 100 percent working, it was working better than we had any right to expect. Moving forward, we now know more about what this pandemic can do to people and we know more about how to handle this vast number of people in a more agile way. We have updated our systems we have automated the way we that we report to people. We have automated the way that people work within the system. We had --

SENATOR SKOUFIS: Just because my time

is running out, so if we go through a very similar situation again, similar circumstances, how long will it take for you all at DOL to scale up. It took two months in March, April and May. How long, given these improvements will it take to scale up for the next time?

COMMISSIONER REARDON: First of all, let me point out it did not take us two months to scale up. What happened was at the beginning because there was such an overwhelming surge of cases, we had the backlog issue because we couldn't get to them. But we were approving people right along. April 20th was when the new Google application went live and had the seamless PUI application, so it did not take until mid May.

That said, we know what we are doing now with the improved systems that we've got. We've got a trained pool of workers, not just in the DOL but across the state workforce and in the world of vendors. We know how to get the help that we need, so I am very prepared for anything that comes. But let me point out. We went one

Joint Hearing COVID Impact on Workforce, 8-13-20

week from 16,000 applications, the next week had over 100,000 applications and it went up from there for weeks. So that was the problem. We completely renovated our system, we automated the way people worked with us. We've got chat bots to answer questions and more than anything else, we are telling people you do not have to call us in order to complete your claim.

SENATOR SKOUFIS: Thank you.

COMMISSIONER REARDON: Google was a hu

change in the way people came in.

ASSEMBLY MEMBER MCDONALD: Okay. Tha

you. We're going move to the Assembly and it looks like Member Marianne Buttenschon has her hand up. Marianne.

ASSEMBLY MEMBER MARIANNE BUTTENSCHON: Good morning everyone. It is a pleasure to be here and to the commissioner as well as to your staff, please extend our sincere appreciation for the hard work and dedication and commitment. And I just want to add to what some of my colleagues have already brought up, but clearly there are still some issues that we are seeing. Retroactive

pay is still an issue in the area that I come from, which is the Utica Rome area, we're still receiving calls. We're also receiving calls from individuals that were on unemployment, unfortunately were laid off again and tried to go back on, so the only way it works is delete, completely delete them out of the system. But this is what is happening with these individuals. So I just want to bring it forward that these are issues that we're dealing with from individuals that, for months past.

And finally, the portal, as I know the portal was set up, and the challenge we have is it's a one-way communication so the individual has attempted, reaches out to one of the offices for assistance, being mine, and the staff follows the procedure, receives a confirmation that the information has been received. We ask the individual to be patient, to give you a week and we hear from them after the week that they still are waiting. So if there's a possibility that not only a confirmation or a call possibly to our office or an e-mail that says we have reached out

to this constituent and we are working on it. Because we find that that is probably the biggest challenge is the one-way communication with your office. So we're not sure, clearly, if someone is helping this individual, unless the individual calls the office, which enthusiastically tells us that they've had this taken care of. So I just wondered if this is something that you're aware of, that your staff is working on or if it possibly could be rectified.

COMMISSIONER REARDON: Yes, and I wil

I'm having conversations with staff now how to do that. As you know, we are not allowed to discuss any personal details of a claimants' case, so that may be one reason they're hesitant do it. But I'm going to talk to them. I'm very happy to say that we have worked through the portal list 100 percent. They've all been contacted. Now, remember contacting a claimant doesn't mean that they are automatically made whole. Some of the people have very difficult cases, some of them have been, there are fraud issues, they've been victims of fraud, they have adjudication issues,

they have identity issues. So they may not have been made 100 percent whole in the moment but we are working them. The other thing to remember is unfortunately sometimes people don't like the answers that they get from us and we can't change that.

ASSEMBLY MEMBER BUTTENSCHON: understand that. But the community that I'm honored to represent has a large refugee population, so we have the ability that we've created these relationships to be able to work with them and possibly help your staff through whether it's a communication issue or a concern, as you stated.

ASSEMBLY MEMBER MCDONALD: And lad speaking of relationships we are going back to the senate. Thank you. Senator.

SENATOR RAMOS: Thank you, Assemblyman McDonald. I appreciate that we're really sticking to the schedule here. Before we move on to the next senator, I want to recognize that we have been joined by Senators Kamisky, Sanders, Gallivan and Metzger. And up next we have senator

Joint Hearing COVID Impact on Workforce, 8-13-20

George Borello, you have three minutes to ask Commissioner Reardon your questions.

SENATOR GEORGE BORELLO: Thank you ve much, Chair Ramos, I appreciate it. Good morning, commissioner, I want to start off by saying thank you for the hard work of you and your staff. Like other senators and assembly people, we have been inundated with calls and your staff that we work with one-on-one and we appreciate the hard work, so thank you for that.

I'm speaking to you not only as a senator but also as a small business owner, who, you know, my family-owned business employs nearly 200 people. And despite the fact that we had this crisis in unemployment, I can tell you that, like many other small business owners, we watched as the unemployment claims piled up on my wife's desk while she was desperate to hire employees because we could not get people to work. And this is something I've heard across the spectrum from big businesses to small businesses, that we could not get workers despite the fact that you paid out $41 billion in unemployment insurance claims.

So my question to you is what is going to happen with unemployment insurance experiencing ratings and the impacts on business? It seems wholly unfair that while we were trying to hire people that we could not, largely because New York State gave the longest list of reasons why you could collect unemployment and quit your job and not work. So please let us know how that is going to impact and hopefully not add further insult to injury to the the business owners of New York State.

COMMISSIONER REARDON: So, look, we understand at the DOL and the governor understands that this pandemic is unlike anything we have ever experienced and that goes for businesses as well as workers. And the shutdown of New York State businesses was not something that you asked for. So we are looking at, the governor signed an executive order and allowed us to look into the issue of the experience ratings and how that might be adjusted for businesses and we are working on that right now, because we understand. I always understand, I say to my

folks all the time the relationship between a worker and a business person is symbiotic. The worker needs the paycheck, the business person needs that worker so one can't exist without the other. And we will do everything we can to make sure that New York business, particularly small businesses, which are the backbone of New York State, remain healthy and can grow in this state. We take it very seriously. At the same time --

SENATOR BORELLO: Well, I'm glad to hear you say that. Go ahead, I'm sorry.

COMMISSIONER REARDON: People are allowed to collect the benefits according to the federal regulations.

SENATOR BORELLO: Yeah, I understand. That was in my opinion, a mistake made in Washington that was weaponized in Albany by allowing virtually anyone to claim unemployment, even if they didn't have a real legitimate excuse and that's really where we have the problem here. That's why like I said, we've watched unemployment claims pile up on the desks of small business owners across New York State while we

Joint Hearing COVID Impact on Workforce, 8-13-20

paid out a record amount of unemployment claims, many of which are unnecessary in my opinion, since 70 percent of the workers were making more on unemployment than they were making when they were working. So I realize that was not your mistake but it something that's now laid at your feet and the governor's feet to ensure that we don't have further flight of businesses from New York State. Thank you.

COMMISSIONER REARDON: Thank you.

ASSEMBLY MEMBER MCDONALD: Okay. Tha

you, back to the assembly and we will now go to Robert Smullen for three minutes. Roberty? Going once, going twice, gone, three times. We'll go to Harry Bronson. Oh, he's back, he's there, go ahead, Robert.

ASSEMBLY MEMBER ROBERT SMULLEN:

I'm here. Can you see me now?

ASSEMBLY MEMBER MCDONALD: Yeah, we

COMMISSIONER REARDON: Hi.

ASSEMBLY MEMBER SMULLEN: Great.

Commissioner, thank you for coming before us because it's been rare to see you in public to be

able to answer questions about this unemployment insurance issue, which has grievously affected my constituents. Not only those who have been put out of work but more importantly those who have simply been unable to navigate the process and haven't gotten the attention, despite our best efforts from legislative inquiries to be able to adjudicate their claims. And I want to go back to what my colleague said about the difficulties in navigating the system. Now who is responsible for the Google contract to get this system up and running in your organization?

COMMISSIONER REARDON: The person? I mean we, these contracts go through the usual state process, Department of Budget, you know, OSC is actually the person who signs off on it.

ASSEMBLY MEMBER SMULLEN: And they and now that software is run by the Department of Labor and administered by your department?

COMMISSIONER REARDON: Mm-hmm.

ASSEMBLY MEMBER SMULLEN: So there to be a lot of holes in this system and one in particular, one of my constituents, Kathy Katuchi

Joint Hearing COVID Impact on Workforce, 8-13-20

has been waiting nine weeks for her unemployment benefits. We've submitted numerous legislative inquiries. Where can I direct Ms. Katuchi to be able to get a person to be able to specifically help her navigate the system between the New York unemployment insurance and the federal pandemic unemployment assistance program?

COMMISSIONER REARDON: Why don't we ta

offline and I can take care of that.

ASSEMBLY MEMBER SMULLEN: It would b

very helpful because she's not alone. Like I said, I have a mixed district in the Mohawk Valley and through the mountains, 2,200 legislative inquiries from my constituents. It's been the number one issue and their major frustration with New York State government working for them. And it's been a variety of things from March until, you know, here we are in the middle of August and people are still confused as to how to navigate the system. And we are doing very our best to help those people, but it would be helpful if now that there are DMVs open that DOL offices would also be open where

Joint Hearing COVID Impact on Workforce, 8-13-20

people could go in in-person that are not computer savvy or not able to work the system online. And I appreciate that much of it's automated, but I think now is the time with appropriate guidelines in place to meet people in person. When is the DOL going to open up in person offices again?

COMMISSIONER REARDON: We are looking into that. As you can appreciate, it is a difficult thing to handle 96 career centers across the state and the last thing we want to do is create any kind of unsafe situation, either for our workers or for your constituents. We are working very hard to make sure we can bring people back safely and appropriately. But again we have worked very hard to make sure our online presence is as easy to navigate as possible. Right now, if somebody has been waiting for --

ASSEMBLY MEMBER MCDONALD: Thank you commissioner, and speaking of presence, I think the senate has somebody who would like to speak.

SENATOR RAMOS: Thank you, assemblyman. We have been joined by Senator Mayer and up next,

Joint Hearing COVID Impact on Workforce, 8-13-20

I want to recognize Senator Robert Jackson, who has three minutes to ask questions.

SENATOR ROBERT JACKSON: Thank you. H

commissioner, how are you?

COMMISSIONER REARDON: Hi. You're my senator.

SENATOR JACKSON: I know. And listen, during this pandemic, I understand that this was like a disaster for everyone and there was no pull out the playbook in order to get it done. But obviously knowing the systematic process in DOL and I worked in DOL from `75 to `80 investigating fraud, so I know some of the old processes that existed. But clearly my staff, along with all the other staff in the state of New York as far as legislators, were basically inputting the information and sending it up. And we were communicating directly with the governor's office who was the liaison with DOL. And now, from my staff and I found that the best way is to go straight to your employees to resolve matters. But we still, like some of my colleagues have some, a group of individuals that

are still outstanding in which we would like to get that list to whoever you determine and like I can talk to you or have someone offline to contact me so we can get that to you, because the more people wait, the more they're suffering and we're just trying to relieve the suffering that our constituents are seeing right now and having. So I would appreciate that that's number one.

Number two, as you know, I formerly work as an employee of PEF, the New York State Public Employees Federation and get their newsletter and found out that hundreds, if not thousands, of PEF employees that were working and was made to work overtime or they worked overtime and were being paid at like a grade nine even though they may be a grade 14 or grade 18, and obviously, that's not right. So, I hope that that matter is resolved internally within the state of New York, rather than them pursuing all of the legal aspects that they have. It's not right to tell people you continue to work and do your job as a professional, but we're going to pay you as grade nine, totally unacceptable.

But other than that, I say to you that I understand the complexities and I understand, but your staff, I believe, within the past couple of weeks, they've gotten hold of everything and moving things faster but there are still some wrinkles here that we have to work out. So I thank you and your staff for understanding our concerns as representatives of the people and so please help us out. Thank you.

COMMISSIONER REARDON: We will. And thank you. Let us know what we can do to help.

SENATOR JACKSON: Thank you.

COMMISSIONER REARDON: Good to see you

ASSEMBLY MEMBER MCDONALD: I'd like recognize my colleague Al Taylor, who's joined us and I would like to now ask Harry Bronson to join us for a comment. Although he's a former labor chair, he only gets three minutes. Sorry, Harry.

ASSEMBLY MEMBER HARRY BRONSON: first of all, John, thank you. I haven't been labor chair yet. We may work on that.

ASSEMBLY MEMBER MCDONALD: Oh, sorry about that. I gave out a secret. All right.

Joint Hearing COVID Impact on Workforce, 8-13-20

ASSEMBLY MEMBER BRONSON: That's oka

Commissioner how are you doing today? Very nice seeing you.

COMMISSIONER REARDON: Thank you, it's good to see you, Harry.

ASSEMBLY MEMBER BRONSON: Thank you

One of the senators asked some questions about getting ready for the next wave, things of thing that nature. Can you explain to us what you are doing to get ready for any changes that come down where the federal government is dictating it, whether we are moving 600 to 400, those kinds of changes? What are we doing right now so that we can get money in the hands of our families.

COMMISSIONER REARDON: So we've alread

mapped out various scenarios, if it's a flat fee, if it's a portion of a person's former salary, which would be a terrible idea by the way. Just, you know, statistically for us, but we've looked at various iterations of plans. Unfortunately, right now, what has come out of the federal government is incredibly garbled and probably going to be litigious. So we have our tabletops

ready, but we have yet to receive any guidance from the federal government that tells us how they want us to do it. So we're waiting for them to let us know. But we are mapping out scenarios so we know if it's this, we can do that, you know, we're not waiting until they tell us. We have it in the pipeline.

ASSEMBLY MEMBER BRONSON: All right we know that caused some delays in this wave previously without those guidance coming until April sometime.

COMMISSIONER REARDON: Right.

ASSEMBLY MEMBER BRONSON: My next question really isn't about UI, I want to thank you for all your efforts on that though. I know you and the workers worked very hard to make that happen. My next question is what are we going to do as we move forward? My suspicion is that we are going to have a lot of hybrid in facility remote workers and we're probably not going to go back to where people go to facilities all the time in many industries. Some industries, that's a necessity. What are we doing to deal with

workers who will now be working remotely, at least part of the time, and are we anticipating any changes as that relates to independent contractors and gig workers?

COMMISSIONER REARDON: So, let's put t independent contractor and gig worker on another question because one, I'd really like to focus on the remote work, the mixed remote, some here, some there. It is a looming issue. Now, during the pandemic, the state workforce worked remotely. My DOL Staff were calling people from their homes on cell phones, so we understand firsthand what it takes to provision a worker to begin to supervise remotely, what the work plans look like and we are working with industry. I've already had a conversation with the Long Island REDC about this. I expect to talk to other REDC about this. I expect to talk to the other REDCs. We're reaching out to our business partners now.

But we understand that this is going to require a different kind of direction from the employer and a different kind of discipline from the worker. And it's going to require a lot of

different materials. So, we are looking to see how we can facilitate this, how we can help workers up their digital skills and help employers have better approaches to remote work. It is going to be quite the experience in a short-term kind of way. Long-term, three years from now, who knows? Once there's a vaccine, will people want to gather together again? I mean that's yet to be seen. But right now, it is going to be a mix and it's going to be a struggle for some people who are not digitally savvy, both the businesses and the workers.

ASSEMBLY MEMBER BRONSON: All right, well, my time is up, but --

ASSEMBLY MEMBER MCDONALD: Thank you commissioner. Thank you, Harry. Senator.

SENATOR RAMOS: Thank you. We've also been joined by Senator Hoylman and up next, we have Senator Tom O'Mara who, as a ranker on the Committee of Investigations is allotted five minutes for questioning.

SENATOR TOM O'MARA: Thank you, chairwoman, thank you, commissioner, for being

Joint Hearing COVID Impact on Workforce, 8-13-20

here with us today in these very difficult times and was has certainly proven to be very frustrating times for all of us, without question. As you were finishing your last comments there, you mentioned that some businesses and a lot of individuals are not computer tech savvy and that's been a real issue with these claims being made and also with the lack of broadband in many areas it is difficult or somewhat impossible for individuals to be able to have that kind of computer portal connection.

Since we are helping so many individuals with their claims, why can't there be some type of a release from the claimant that would allow our staff, myself, to be able to communicate directly with DOL about the individual's claim, so that that contact is being made and we would have individuals working in conjunction with DOL from our offices helping the claimants when we just kind of -- we make the contact and then say wait for DOL to call you.

COMMISSIONER REARDON: So, we're looki into that. Remember that there are federal

regulations surrounding a lot of the privacy issues. Those are not New York State regulations. Those are federal regulations. Given that, we would like to be able to facilitate your offices and the claimants. We'll do everything we can but we are limited by the federal laws.

SENATOR O'MARA: And a release can't be made under federal law?

COMMISSIONER REARDON: We can look int it. They haven't been very forthcoming lately.

SENATOR O'MARA: Well, I think we should look into that and we should press them on that because we have, my staff and myself are virtually spending 90 percent of our effort on unemployment claims. And they're still coming in daily, several a day into my office still, and we still have some claims that have not been resolved from April, even despite repeated contacts with our labor representative that we have that we can contact through our office. It's just very frustrating when we have to say wait for a callback and then the call doesn't come or it comes and nothing happens. For us to be

involved and help those constituents would be, would, I think make it easier for labor too dealing with someone that knows the process on the claimant's end as well.

At the outset of this, you had, I think, thousands of state workers from other agencies starting, handling these claims. What happened to those workers and why were they taken off the jobs, the state workers from other agencies?

COMMISSIONER REARDON: Well, you know, you can imagine that the other agencies also have work that they have to do. So they gave us a lot of time during the very height of the pandemic when it was really critical. But as I said, we have 4,500 workers right now working on these cases. And remember that in order to have someone come in and work with us, it takes a lot of training. As you can imagine, these are very intricate cases. There are a lot of laws apply to them. You don't get trained in an hour or two. You don't even get trained in a day or two. So this is a very extensive process and we were very thankful for the help we've gotten. But frankly a

lot of these people have their day jobs in other state agencies and they could not stay with us forever. But we do have 4,500 workers doing it.

SENATOR O'MARA: Yes, and I appreciate that, but I think the many that I knew that were involved in it only did it for a couple of weeks. And they were ready, willing and able to continue and were somewhat surprised they were taken off. Certainly I think this should have been all hands on deck to get people the money that the they deserve because, you know, frankly, they were starving.

COMMISSIONER REARDON: So this may hav been a decision by other agencies, it was not a decision by us.

SENATOR O'MARA: What is the department doing with the issue of the extra unemployment being paid and some people earning or receiving more than they did at their regular job before they were laid off? If that job is offered back to the claimant, what is the department doing about making sure that person goes back to their job or cutting off their benefits?

COMMISSIONER REARDON: So let's rememb
that FPUC, which was the extra $600 ended the end of July, that is no longer being paid. So they are only getting whatever their unemployment insurance or PUA amount is and that's remarkably lower than it was with FPUC. So we have even a decrease over the last couple of weeks in new cases and we've seen, you know, things are beginning to lower on the phone volume and we can only assume that people are beginning to go back to work. We, the law, the federal regulation is that you need to be ready, willing and able to work in order to collect and if you turn down an appropriate job offer, then you are not ready, willing and able and then we would have to cut off your benefits.

SENATOR O'MARA: How many people do you have working on following up on those issues?

COMMISSIONER REARDON: I don't know th
we do it in the way that you are thinking, but when somebody asks for an adjudication, it goes to an adjudication person and is looked into. I don't know offhand how many people that is.

Joint Hearing COVID Impact on Workforce, 8-13-20

ASSEMBLY MEMBER MCDONALD: Thank you very much. We're going to move back to the Assembly. I also want to recognize my colleagues Carmen De La Rosa and Catalina Cruz, who joined us and we will now go to Joe DeStefano. Joe?

ASSEMBLY MEMBER JOSEPH DESTEFANO: Commissioner, I have only a couple of questions. One of them was when you mentioned earlier before when someone who is experiencing the pandemic and they are offered to go back to work and they choose to opt out either because of a family issue or illness or anything like that, is there any verification of proof or anything like that required to receive that benefit?

COMMISSIONER REARDON: You mean like a doctor's note?

ASSEMBLY MEMBER DESTEFANO: A doctor note, some kind of documentation that somebody in their care needs to be cared for and they're the only ones that can help them so therefore, they can't go back to work?

COMMISSIONER REARDON: I don't think it's like that, as you had described it.

Joint Hearing COVID Impact on Workforce, 8-13-20

Remember, this is federal legislation. Anybody collecting PUA is paied 100 percent by the federal dollars and it is completely covered by the CARES Act, it's not New York State legislation at all. So the federal government set up that system and they wrote the guidance for it.

ASSEMBLY MEMBER DESTEFANO: Okay. S

basically we can assume by that, that it's the honor system. If someone claims that they can't go back to work for whatever reason, then it's assumed that it's just something that's covered under the PUA.

COMMISSIONER REARDON: It's whatever t

CARES Act set forth as the requirements is what we enforce.

ASSEMBLY MEMBER DESTEFANO: Second

again, I'd like to you and your staff for all your efforts. I spent many an afternoon with all of my Long Island colleagues, with Dana going over all of the unemployment claims and problems that we had, and under the circumstances, your team did a remarkable job. Obviously it did fall

short in a lot of places. I still have constituents calling on a daily basis saying they called in April or March and they still haven't received anything. And as you say there are complex cases that need to be gone through. But it's certainly understandable under the siege that you guys were under. But I do appreciate it, and my office appreciates it.

Also, the last thing I'll touch on is the governor has already indicated that if the executive order that the President signed about a week or so ago, that he's opting out. He's not going to partake in the new executive order that was signed. How is that going to affect you and the staff and obviously the constituents of the state? Where does that leave them?

COMMISSIONER REARDON: So, right now I don't think we have a final determination on any of this. Frankly, we've gotten very mixed messages from the federal government and the U.S. DOL on what the memorandum actually means. So it's very hard to say with any reliability what they're asking us to do. Our hope is that this

will be an enticement for the Congress to come back together and actually pass a law that will, you know, be sustainable and we can work with. But right now we don't really know the parameters of what they're asking.

I can say that if we had to pay an extra $100 for every claimant currently between now and the end of December, it would be something like four plus billion dollars in cost to New York State. It would be completely intolerable. We couldn't do it.

ASSEMBLY MEMBER MCDONALD: Thank you back to the Senate.

SENATOR RAMOS: Thank you. I want to shout out Senator Gustavo Rivera and I apologize. Apparently, he's been with us from the beginning and I skipped over him. My apologies. But up next we do have Senator Monica Martinez who has three minutes on the clock to for her questions.

SENATOR MONICA MARTINEZ: Hello, can hear me?

SENATOR RAMOS: Yes.

SENATOR MARTINEZ: All right. So

Joint Hearing COVID Impact on Workforce, 8-13-20

commissioner first of all, I love the new hairdo.

COMMISSIONER REARDON: Thank you.

SENATOR MARTINEZ: It looks great. And again, I just want to say thank you for everything that you've done thus far in helping my office with things that we've had. But I just want to say we are still going through things and I just want to make sure that we communicate a little better. But here are my questions. In terms of some of our labor issues that we've been having in the districts is regarding protecting employees in terms of how that's being handled. We have a couple of businesses and distributors, big distributors here on Long Island who have one, failed to negotiate any type of fair labor agreements, working conditions to be fair enough and they haven't really been I guess forthcoming in trying to provide PPE for employees at certain factories.

What are we doing in terms of that process and is there a way to put a complaint -- I know you said earlier that there is a way to put a complaint in. But I'm also afraid that

Joint Hearing COVID Impact on Workforce, 8-13-20

people will be afraid to put a complaint in if they have to provide any type of information, such as their name. I don't know if on the website there is a way that you can become anonymous or be anonymous in terms of what they can put in as a complaint.

COMMISSIONER REARDON: So you have, if you file a complaint with the Department of Labor against your employer, we do not disclose any identification to the employer. It is anonymous for the very reason that you're talking about. We understand it's hard to come out and say my employer is harming me. We protect your identity. We also have a retaliation unit, so if something should happen and the employer retaliates against the employee, we will go after the employer. We take it very seriously. So they should not be afraid to come to us. We do this all the time, work with everybody who comes in. We understand how hard it is to take that first step. But if you don't take the first step, we won't have the ability to come in and look at what's going on.

SENATOR MARTINEZ: And I appreciate

that. So I have one in particular, Quality King. They have a couple of distributing centers in my district, one being in Bellport and they have yet to provide our employees with the proper equipment needed. And I've tried to call them. They refuse to call me back and the union has tried to negotiate, but they are not responding what can we do to protect those employees?

COMMISSIONER REARDON: Let us know. Absolutely, go on the website or call the office, let us know who this is and we will absolutely look into it. If there's a union involved, tell them to reach out them to me as well. That's an additional piece of leverage that we have, but we take this very seriously. This is an airborne disease and a contact disease. And last thing we want is workers being forced to go to work in unsafe conditions, it's not supportable.

SENATOR MARTINEZ: And I appreciate that. And my last question is do you have a total number of businesses that have reported not having adequate safety measures?

COMMISSIONER REARDON: Do I have a pho

number for businesses or?

SENATOR MARTINEZ: No, no, no if you have -- how many businesses do you have that have put a complaint in that they have not been able to provide adequate safety measures? Whether it's funding or whether it's just they don't know how to do it. I mean do you have a total?

COMMISSIONER REARDON: No, I don't hav -- but, but we can talk about that offline, I don't have that right in front of me but we can certainly have that conversation.

ASSEMBLY MEMBER MCDONALD: And speal of offline, we're going to go back to the Assembly and we're going to ask my colleague, Jo Anne Simon to the panel. Good morning, Jo Anne.

ASSEMBLY MEMBER SIMON: There we go. I starting my video. There we go, okay.

ASSEMBLY MEMBER MCDONALD: Beautiful

ASSEMBLY MEMBER SIMON: All right, so thank you very much. Good morning, commissioner and thank you for your testimony.

COMMISSIONER REARDON: Good morning.

ASSEMBLY MEMBER SIMON: I have a serie

of questions, I'm going to lay them out to maximize time. And so a couple things that are new trends. Number one, we are getting more and more older cases that had been successfully certifying and are now having difficulty certifying. And we don't understand why that might be. Back pay is still a problem. The process and the ability for people to get through that process is still very sticky. And so they're forced to call our offices repeatedly and by time we get them, and we have to call your office again and again, by time we get that, it's already protracted. So there's quite a gap for people.

Also contesting, is some people who feel they're not getting the level of benefit they should be, but that process to contest is the same as appealing, you know, applying for unemployment and so that kind of slows that down. There doesn't seem to be a more streamlined way to do that and so we just find that a lot of the sort of general communications are still very, very sticky. We are following up with your office

numerous times and we realize everybody is overworked, but we have very little staff as well.

And then the other thing is there was an Uber lawsuit and there was a question about those Uber workers who were employees under state law who were not falling into the right category or something. And there was a finding for those employees and is the Department of Labor now processing them and how is that going?

COMMISSIONER REARDON: So, let me wor backwards, I made a list. The Uber case of course is in litigation and I can't comment on that. The reconsideration for your benefits, we are doing those as we speak, and I can look into, you know, cases and see if there's a particular problem that you're having. The back pay, people get a DocuSign document sent to their e-mail, they fill it, it has their information and it automatically goes into the computer. So they should watch for the DocuSign and fill it out when it comes. We've paid out $4 billion in back certifications through the DocuSign system, so they should make

sure that if the DocuSign system comes in, they have to use it. It's the most efficient way to get back certifications. Remember, nobody ever back certified before the pandemic. This is all brand new. And difficulty certifying now, that is an oddity, if there was a break in their claim, if they forgot to certify for a week, that might be the problem, because then they had a break in service. But, you know, we'll look into it and see. It should be automatic, you can certify every week online, so they shouldn't be having a problem.

ASSEMBLY MEMBER SIMON: That was our view too, they shouldn't be having a problem because they had been doing that regularly. And so let me just, if I can, follow up on your point about the DocuSign document and people should be getting it regularly. What if they're not get -- I think the problem is they're not getting anything. They're never getting the DocuSign document.

COMMISSIONER REARDON: Okay. Then, we need to talk to them. It could be that they gave

us a bad e-mail. It's all done by e-mail if we have a bad e-mail, that's why. So we need to have a conversation. If they have two-way communication on their account, if they signed up for that, then they can just send that through two-way communication and we can begin the process that way. But, usually, if they didn't get a DocuSign it's because we don't have a good e-mail.

ASSEMBLY MEMBER SIMON: Okay. Thank yo

SENATOR RAMOS: All right. Thank you. Thank you, assemblywoman. Up next, we have state Senator Diane Savino who has three minutes on the clock for her questions.

SENATOR DIANE SAVINO: Thank you, Senator Ramos. Good morning, commissioner. A lot of my questions have been answered so I'm not going to repeat them for time. I do want to talk about two issues that I think are important because you and I have had this conversation in the past about the issue of staffing and not just your agency, it's in every state agency. And as a result of the pandemic and the demands upon your

agency, you were forced to bring people in from other agencies. And I think you used the number of 4,500 people -- have they come in from other agencies or is that 4,500 people from other agencies plus temps from outside agencies?

COMMISSIONER REARDON: So we've hired about 500 people at this point, I think, in the DOL. We have outside vendors. We may still have some volunteer, you know, people from other state agencies. I don't know of that mix. But let me just point out because you and I have talked about this a lot. In the universe of UI, our budget is mainly, almost 100 percent federal. So the ability to hire more staff is really a federal dollars issue and it's an inverse proportion. When the economy is good, our staffing shrinks, because we don't need them. When the economy is bad, we grow. That's why we just hired 500 people. We get administrative funds from US DOL to do that. It's not state dollars that's paying for them.

SENATOR SAVINO: So the two other issues I want to mention and you can answer. The

strength or the safety of the trust fund, we've spoken about in the past. Maybe you can address that. And two, I know that in 2019, the department decided to implement a new computer system because the system had you in place dated back to the 1970s and the new system is not quite yet in place.

COMMISSIONER REARDON: Correct.

SENATOR SAVINO: Or you may have been in the process of implementing it. This could not have happened at a worse time, so you brought on 60 servers from Google and now you still have the new processors that are supposed to come in. Are you going to continue with the implementation of I believe it's the Tata system to complement the Google servers that you have? Or what do you see as the future of technology in the Department of Labor?

COMMISSIONER REARDON: Great questio Thank you. So, I'm happy to say all through the pandemic, the outside contractors and the staff that we had devoted to, we call it UISIM is the acronym for this, devoted to the rebuild of the

system. They worked throughout the pandemic on the rebuild. They focused, they took all the information -- remember we got a lot of new information that we had never -- we never expected to serve three million people for instance, so that has enriched this program enormously. They are continuing to work through it. We have a very aggressive timeline for it. The Google information has very helpful. TCS is the American part of Tata and they are doing a superb job and we are looking forward to rolling that out.

You're right. We were nowhere close to being able to have it ready during this. But the good news is they're working very hard on it. The trust fund, we are on a federal line of credit at the moment. It is interest free and there is a lot of talk in Washington about some kind of federal forgiveness of at least some of the loan for states because every state in the country is facing this.

I am very happy to say that the work at you all did in the legislature following the last

recession to rebuild the system of the trust fund really worked. Our trust fund was solid, we got through the first part of it without having to take out a loan which was great. And we appreciate the work you did and I know once this is all over I'm sure we will revisit this whole conversation, because this has changed everything.

SENATOR SAVINO: Thank you.

SENATOR RAMOS: Thank you. Up next we have, oh I should mention that we don't have any more assembly members on the list, so we are going proceed with the rest of my colleagues who have questions. And up next we have state Senator James Sanders who has five minutes for his questions.

SENATOR JAMES SANDERS: Thank you, Mac Chair and thanks to the other chairs. Good to see you commissioner, how are you?

COMMISSIONER REARDON: I'm well, thank you.

SENATOR SANDERS: Good. Let me follow up with Senator Savino's question of computer

Joint Hearing COVID Impact on Workforce, 8-13-20

systems. Computer systems often have problems of being merged. How do we get rid of one system and grab a different system or what is the plan after this? Are we going to -- are we going to still another system and who is going pay for this Since this was a problem to begin with.

COMMISSIONER REARDON: So remember, th UI system is by and large almost 100 percent federally funded. We have appropriate fundings for this rebuild. It is not coming out of the trust fund, would never come out of the trust fund, not coming out of state dollars. It is, as you can imagine, I used to say to people at the height of the pandemic, you are you are not buying socks off Amazon, this is a huge knowledge machine and they are highly complex. That's why the rebuild of the system is years long instead of months long. There will be migration of information from one system to another, there will be bridges. It would take me way too long to begin to explain the little bit that I understand about technology to you.

But it is a highly complex system and we

have excellent, and I mean excellent people working on it. We have, of course, the outside vendor, but we have our own subject matter experts and people from around the rest of the state government, ITS is working with us. So, it's huge. It will be a complex issue and once it's rebuilt, I'm very excited because I think with a rebuilt system, we would not have the same kind of problems that we did today. We've learned so much from this COVID disaster and all of that is being integrated into our thinking for the new system.

SENATOR SANDERS: Well, Madam Commissioner, all of these things were being done in theory before this disaster struck. What's to ensure and what timeline do we have to make sure that we're automated?

COMMISSIONER REARDON: So we remain automated. We've done a lot of upgrades to our system during the pandemic. We literally rebuilt the plane while we were flying it and that's a good thing. And a lot of the progress we've seen in the last six weeks is because of all that

technology that we've been able to use.

The pandemic has taught us some interesting lessons. We had done a lot of scenarios, obviously going into the rebuild of the system, no one ever envisioned shutting down New York State, no one. And so now we do envision it and we know how to prepare for that. Other states are asking us how we have gotten through this pandemic. As difficult and problematic as it has been, we have been months ahead of other states. I had a call in mid-May from a neighboring state saying how did you set up your third party call centers? We set them up in early April. I know other states were just beginning to pay PUA at the end of May and into June. We paid ours in early April, as soon as we could.

So as painful as it's been for us, we are leading the country. And I'm very proud of that we have learned all of those lessons and we are not going to forget any of them.

SENATOR SANDERS: Madam, since time is up my friend, let me put in two questions to you. We've heard a lot of this talk of people earning

more on unemployment than work. I'd like to have a quantification of that, how true is this. Then the other, I have so many people in my district that are crying out, screaming out, dealing with the question of depression, suicide, et cetera, because they're not getting their needs met. So if you can answer with assurance, how do I go it these people and their needs met? And how true is this comment that lots of people are earning more from unemployment than work?

COMMISSIONER REARDON: So there have been a number of studies, not just in New York State but across the country, about that very large issue and there are a large number of people in various states, including New York who have earned more on unemployment than they did at their job. I think that speaks more to the low wages than it does to the system that's assisting them. Let's remember that this system was devised to keep people home, so they did not get sick and it worked. And I think it was worth every penny that we have all spent to protected our citizens.

As far as people being desperate, I hear

you. I think it is a terrible situation I want to get people back to jobs and not just some crummy low wage job, I want to get people back to good jobs. I want to help people find a better career, I want to offer them the opportunity for training so that they can improve the lives for them and their families.

And by the way, we are participating with Head Space. It's a company that does mental health counseling and there are lots of resources there, call me offline and we can give you the information for your constituents. It's all free, it's all confidential. People should never suffer the way they've been suffering these days and we have help available.

SENATOR SANDERS: Thank you, Madam Commissioner, thank you Madam Chair.

COMMISSIONER REARDON: Thank you.

ASSEMBLY MEMBER MCDONALD: Thank you will now move back to the Assembly, co-chair Tom Abinanti for five minutes.

ASSEMBLY MEMBER ABINANTI: Thank you all. Commissioner, thank you very much for

joining us. You and I have had a conversation on a bit more of a general area. And I'd like to take you away from unemployment insurance to another part of your role. If you look back, a year ago, the unemployment rate in this country and in New York was you know, much, much lower, New York, we were talking maybe four percent. Now we're talking 15 percent, New York City 20 percent.

COMMISSIONER REARDON: Yes.

ASSEMBLY MEMBER ABINANTI: And we ha

seen so many people lose their jobs. We've seen so many sectors of the economy that have been badly damaged and we may be losing them permanently, or at least they're going to be it is going to be a long time before they come back. And so we need to find a way to restore parts of our economy or substitute new ones we need to find a way to support the green economy and move towards the sustainable jobs that are not going to be affected or not going to damage the economy or the environment and which are going to be there if there's a second round of COVID. So what

Joint Hearing COVID Impact on Workforce, 8-13-20

are we doing to make employees feel safe that they can leave their homes? What do we do to stimulate other areas and do we need to raise the minimum wage so that we don't face this issue of unemployment benefits being better and more than working for 40 or 60 hours a week? Your thoughts? Do you have a plan? Where do we go from here?

COMMISSIONER REARDON: Let me start wi

the green economy. I am fortunate to be on the clean, the climate counsel and I am co-chairing the Just Transition working group, so we have begun working throughout the pandemic for that future because the green economy is the future and it has a lot of jobs in it. We are currently assessing what are the skill sets people need, what kind of training do they need. How sustainable are those jobs and where are those jobs going to be? So we are in actually in process right now, looking at where in the state they are, where the workers could be and what they need, what skill sets they need in order to compete. It's a great area and it is literally the future.

We also know, as I said earlier, being digitally savvy is going to be more and more critical as we move forward because workers, those workers who can work remotely are going to need to know how to work, how to work through the internet, how to work on a telephone, how to send their work product back and forth and that means a skill set that a lot of people have minimal comfort with. So we are looking at where do you get that kind of training, how do you assist those people.

Employers also need this kind of training. It is very difficult for some employers to manage their workforce remotely, so we are looking at how can we work with our business partners and help them develop the skill sets. DOL developed a telecommuting policy over a year ago. We are the first agency that I know of in New York State to float one. And it was not easy to do, but it was highly productive. And when this pandemic hit, in that sense, we were ready with a plan, we know what it takes.

So businesses have to be digitally

savvy, they have to be willing to trust their employees to be able to work remotely and report accordingly. We found at the DOL, workers are often more productive remotely than they are in the office. So, you know, these are changing paradigms that people need to get comfort with. We have to have public conversations. We need to work with our education partners. We signed an agreement with Empire State, which is mostly an online college last year so that we could help our people in our work centers go to Empire State for training. So that is a great solution and we're looking to build up more of that.

It's education, it's public awareness, it's making sure that people have the technical knowhow and the infrastructure, the cell phones, the laptops, the iPads, whatever it is. Broadband is critically important. We said earlier parts of the state have very bad access to broadband. Without that you can't work, so there are definitely things we need to do.

ASSEMBLY MEMBER ABINANTI: Commissio

you mention the REDCs. I don't know, these are

kind of, the governor's economic development arm. How do we get them to understand what you just said? How do we get them to change their focus to the things that you are talking about? And secondly, I'm going to come back with this whole concept of the minimum wage. I think we have to have a minimum wage that is different in every part of the state, but has to be raised quite a bit so that we encourage workers to come out. I appreciate what you're saying about the digital savvy. This COVID has taught me to become digitally savvy. I was just on two different meetings at the same time. I see some of my colleagues were on the other meeting. I literally have two computers in front of me right now and I'm doing two Zooms at the same time. I got remember to shut the right one off at the right time so can I talk to the right one.

ASSEMBLY MEMBER MCDONALD: speaking shutting off --

ASSEMBLY MEMBER ABINANTI: But that what has taught me to do that, and I think we've got to have a plan and would I like to continue

Joint Hearing COVID Impact on Workforce, 8-13-20

this conversation in the future. We need your leadership --

ASSEMBLY MEMBER MCDONALD: In the future, and not now.

ASSEMBLY MEMBER ABINANTI: -- in he everybody [unintelligible] [01:22:42].

ASSEMBLY MEMBER MCDONALD: Thank you senator, go right ahead.

ASSEMBLY MEMBER ABINANTI: Thank you

SENATOR RAMOS: Thank you, guys. Up next we have Senator Shelley Mayer, who has three minutes for her questions. Thanks for keeping it lively.

SENATOR SHELLEY MAYER: Thank you, tha you Madam Chair and thank you commissioner, nice to see you.

COMMISSIONER REARDON: Good morning, nice to you see you. As you know, because you and I have had many conversations, I am still fighting incredibly hard, as I know all of my colleagues on this call are, for their constituents, many of whom have been waiting since March. Every day, I send five, what I call

Joint Hearing COVID Impact on Workforce, 8-13-20

urgent, new urgent cases to the department for resolution. So I know that you've greatly improved your operation, but no one should take away from this hearing that our constituents aren't still absolutely in the midst of dealing with challenges with the Department of Labor itself. And so I appreciate the attention you have brought to it, but I don't think we should minimize and pat ourselves on the back because we are not in perfect situation.

COMMISSIONER REARDON: No one has ever said we're perfect.

SENATOR MAYER: Well, I know, and I appreciate that. But I think during the pandemic there was a tendency several times, to blame applicants for so called you have forgotten to certify, you have haven't dealt with knowing a particular number. I think we ought to take a lesson learned from that. Many of our applicants could not certify because of problems. They were not at fault. So I just think language wise, there's a lesson to be learned here. We're all in it together. You were very much with it with our

constituents who are suffering. Let us not blame those who are trying to get through a difficult situation. So I just, lesson learned for all of us in my opinion, but I think it's important to raise it.

I have a question about hazard pay for the many workers who had to go out like nurses, for example, people who work in group homes. You know, many of them serve at the bottom end of the wage scale, many black and Latino women in most of our districts. I wonder whether you could consider under the provisions of Article 19 of the labor law convening a wage board to look at whether they ought not to be entitled to hazard pay, given what they may go through in another pandemic.

I think there are real questions about whether there health be endangered by their work and I think the Department of Labor has power to review that and consider whether we couldn't add to their pay a statutorily required hazard pay. So I just put that before you as something to consider.

Joint Hearing COVID Impact on Workforce, 8-13-20

COMMISSIONER REARDON: Thanks.

SENATOR MAYER: And thank you for your comments on shared work. I wonder, what is the department doing to ensure to promote shared work, which is a fantastic idea.

COMMISSIONER REARDON: So we have worl with a lot of businesses, as you know, we have business services reps across the state, they have very well developed networks with businesses and we've reached out very extensively. Obviously, not to everybody because that's impossible, but we try to tell it wide and far that shared work is available. We also worked internally to make sure that our internal processes were ready to take the onslaught, because we knew it would really ramp up quickly, and I'm very happy to say we've automated a lot of it so it's no longer a paper-driven exercise and we're able to handle these shared work issues in real time which is very, very helpful.

You know, I've made the offer to you and I've made the offer to a number of other people. If you want us to come out and meet with a

business group, with your local chambers of commerce, whoever, we are happy to send a representative out and walk them through A to Z what shared work is and how it works. It is an excellent way to hold on to your trained work force.

SENATOR MAYER: Thank you. That's great and I will take advantage of it. Thank you very much. Thank you, commissioner.

COMMISSIONER REARDON: Good to see y

SENATOR RAMOS: Thank you. We don't have an assembly person signed up for questions at this time, so up next, we have state Senator Daphne Jordan. You have three minutes for your questions.

SENATOR DAPHNE JORDAN: Good morning everybody. Thank you to all the committee chairman for putting this public hearing together and thank you very much, commissioner for answering so many questions. Many of the questions I would have asked you have already been asked and they dealt with my constituents having a hard time getting their claims. And we

still are working on quite a number of claims and several do come in each day that need assistance.

But I guess my question goes back to something you said in the opening statement and, you know, really, this has been, COVID has been about a terrible loss of lives, but it's been about a terrible loss of livelihoods as well. And your department has been the lifeline for very many people. In your opening you had said that you've paid out $40 billion worth already and that's 18 years of unemployment claims within just five months.

So I know that in order to replenish the UI fund, that the state had applied and received from the federal government $5 billion through a unique federal loan and I guess it's interest free for the first year. It was a disaster type lean, and I don't know all about it, but how are you planning to pay that back. And I guess the fear that I've heard from some of the companies is that the state will raise unemployment taxes on them to pay back the debt and they're already hurting. So, it's like a spiral, it could be a

Joint Hearing COVID Impact on Workforce, 8-13-20

spiral downward.

COMMISSIONER REARDON: So here's the really good news about that atrocious number, the $40 billion, 75 percent of that is federal dollars because of federal programs created during the Cares Act. Only 25 percent of that comes from the UI trust fund, so our trust fund loan, while it's big, is not $40 billion and hopefully never will be. We are working very hard. The governor gave us the authority to look at the experience rating issue. We understand that businesses are under a tremendous amount of pressure because they've lost their ability in many instances to have a business, so we're looking at all of these issues and we will be making recommendations you know, relatively soon.

The experience rating itself does not get sent out, the new year's experience rating is not sent out from the department until February of next year, so we have some time to really work through all of this and see what's really going to help everyone. But we are definitely looking at it. But remember, $40 billion is not $40

billion out of the New York State UI trust fund. It's only, that's only a quarter. It's like we only have a loan of $5 billion which is large but it's not 40.

SENATOR JORDAN: Do you foresee that you will be needing more than the $5 billion that you've taken already?

COMMISSIONER REARDON: Well, we have over three million claimants in the system, so yes. You know, it really depends on how quickly the economy recovers, how quickly people go back to work. There are a lot of variables, do people with higher benefits go back to work sooner? That leaves you with less being paid out. It all, it's a great variable. But it is interest free at the moment and I know that there is interest in Washington to see if the federal government can forgive some of these problems because, of course, it's not just New York State, it's every state in the union. Everybody is suffering from this.

ASSEMBLY MEMBER MCDONALD: Thank yo

Back to the Assembly. Carmen De La Rosa, come on

Joint Hearing COVID Impact on Workforce, 8-13-20

down.

ASSEMBLY MEMBER CARMEN DE LA ROSA:

Hello commissioner, how are you?

COMMISSIONER REARDON: I'm well, how

you?

ASSEMBLY MEMBER DE LA ROSA: Good

you and thank you to all my colleagues for putting together this hearing and for you for attending. I have a question about workers that have not been able to get any assistance. You know, we have been working with some workers that were not able to get any federal relief from the economic stimulus plan and workers who have not been able, unfortunately, to qualify for unemployment because they're not part of the traditional workforce. Yet they're considered essential in our communities and in keeping our city running, our state running.

What can you do within your authority to help bring some relief to some of these families that are in this moment, you know, facing homelessness, hunger and historic unemployment?

COMMISSIONER REARDON: It is a

heartbreaking situation. And I take it very seriously. Unfortunately for us in the UI system, we are heavily regulated by the federal government and they have regulations on citizenship, how you qualify for benefits. If you are participating in the cash economy, by and large you are not considered eligible for either PUA or UI. And that is a serious problem.

There are other forms of assistance in the state government and at the federal level and we can talk offline about some of them in case there are ones that we know about that you don't know. But unfortunately, for me, as the head of the DOL, for the UI system and the federal CARES Act, we are very limited by the federal government itself.

ASSEMBLY MEMBER DE LA ROSA: And a

as wage theft and other practices that may put workers at risk, what oversight is your department going to have, for example, for employees who are coming back to work to ensure that they are safe but also that they're being paid what they're supposed to be paid rather

than, you know, whatever the economy allows.

COMMISSIONER REARDON: Yes, and I've heard that from a number of people. It is, you know, it's a concern to have and I share it. So any worker who is concerned about the safety of their workplace can go online, on our COVID complaint form and fill it out, and again it is anonymous. We do not go to the employer and say Jane Doe registered this complaint. We would never do that. So we protect the identity of the worker, we contact the employer and assess are you handing out the proper PPE, are you doing proper sanitizing, are you enforcing all the regulations.

And most of the compliance that we've gotten, almost all of it has been voluntary because you know, most businesses don't want to endanger their workers. There are some that do, I know that. So there's that.

If a worker feels that they are being abused on their pay scale, certainly if a worker is being paid less than minimum wage, immediately let us know, because that is a violation and we

take it very seriously. Same thing with overtime, if you're working 42 hours and getting paid for 40 let us know. Again, we will look into it immediately because these are not allowable in this society. And I know that there are unscrupulous employers who think I'm not making enough so you can't make enough. That's not the system. We have laws.

ASSEMBLY MEMBER DE LA ROAS: And f

with your discretion, if we were to get a second wave, which hopefully we don't, is your agency prepared, financially but also with the technology in place to begin to quickly upload these cases [unintelligible] [01:34:16]?

COMMISSIONER REARDON: Yes. So that, y

know, we are running those scenarios as well, because we are very concerned about a second wave. On one hand a lot of the workers who might again be laid off would already have a UI claim in the system, so it's much easier to reconnect them. But we understand where the speed bumps were before, what the kinds of fixes we need to make, how we need to expand our workforce in

order to accommodate it. You know, we started out with something like 1,700 ports and we now have over 10,000 telephone ports that allow more calls to come in. So we're very aware of where the pain points were before.

ASSEMBLY MEMBER DE LA ROSA: Thank

SENATOR RAMOS: Thank you, thank you ladies. Up next, we have state Senator Andrew Gounardes, who has three minutes for his questions.

SENATOR ANDREW GOUNARDES: Okay. T we go. I'm in my car, so thank you very much commissioner. I first just want to echo the sentiments of -- thank you for answering a lot of questions that we have, but really echo the sentiments of Senator Mayer about the language that we use, and not just for your department but I think at all levels of government when we use certain words and certain phrases, how it affects people's psyche, especially when they're going through such severe economic trauma like they have been the last couple of months. So I would just urge you to consider that as the department

Joint Hearing COVID Impact on Workforce, 8-13-20

continues work to help get money into the hands of people who need it.

And I also want to echo the sentiment about hazard pay. I have grocery workers in my district who have had hazard pay taken away from them and yet they are still subjected to really, really difficult working conditions and anything we can do to hold those employers accountable but also support those workers, I think, is very important.

I do want to focus my questions on the public employers and public employees specifically and I know that the Department of Labor has the Public Employee Health and Safety Bureau and I was wondering if you could share with us how many complaints of unsafe public workplaces has the bureau received over the last five months while employees have had to come into work during the pandemic

COMMISSIONER REARDON: So, I don't actually have that number. I can get it for you offline, but remember that for a lot of public employees, they also were sent home. The DOL

Joint Hearing COVID Impact on Workforce, 8-13-20

Workers who were working on this crisis, by and large, were working from their homes, not from our offices. We have, you know, I'm in building 12 right now and we could hold over I think 1,500 employees in here. We have maybe 500 at max. So many, many agencies do not have their staffs on site. And that's a good thing. That is an important way to protect people. So, but I can find out what kind of complaints we got.

SENATOR GOUNARDES: Yeah, that would be great.

COMMISSIONER REARDON: Let me just go back to the --

SENATOR GOUNARDES: Sure.

COMMISSIONER REARDON: I just want to point out, it is critical for us to educate our users on how to access their benefits correctly and we say you need to certify every week. If we don't say that, people don't. And I'm not criticizing people, but if they don't know to do it, this won't do it. And then they will not get service. So when we say you must certify every week, that's a reminder and we send it out. This

Joint Hearing COVID Impact on Workforce, 8-13-20

is a federal requirement. We cannot do it automatically at New York State. The federal requires an individual to personally certify their benefit every week.

SENATOR GOUNARDES: Sure, thank you. I appreciate that. And just circling back to the public employee question again, while many agencies and many departments may have sent their workers home, as chair of the Civil Service Committee, I receive several dozen complaints from workers across the state, as well as some unions who, for totally administrative jobs were being told to come into work and being told to come into work without any equipment, any protection, anything whatsoever. So it's obviously very concerning that that is happening, even into end of April, May, et cetera. So, I would really like to see those numbers and see what else we can be doing to make sure that as we're sending workers back and preparing for a potential second wave, we are keeping our public employees safe and we are holding public employers at all levels of government fully

actable for a safe work place.

COMMISSIONER REARDON: Absolutely.

SENATOR GOUNARDES: Thank you.

SENATOR RAMOS: Thank you, and up next, we have Senator Brad Hoylman, three minutes. Hoylman going once, Brad Hoylman going twice.

SENATOR BRAD HOYLMAN: I'm here. I'm here.

SENATOR RAMOS: He's here.

SENATOR HOYLMAN: Sorry, sorry. Hello commissioner, good to see you thank you for being here and testifying. I just wanted to ask a question. Thank you, Madam Chair for indulging me. As you know, Key Bank has a contract with the Department of Labor to provide benefit banking services, which includes issuing Key Bank branded debit cards on which unemployment insurance recipients can receive their UI benefits.

And it's come to our office's attention that Key Bank charges UI recipients between $1.50 and 3 bucks per ATM withdrawal if a benefit recipient draws down on their benefits on an ATM outside of key bank's network and that's in

Joint Hearing COVID Impact on Workforce, 8-13-20

addition to whatever fees those outside ATMs might also charge. You know, particularly at a time when so many New Yorkers are struggling and out of work, it seems unconscionable, would you agree, that UI recipients can be nickeled and dimed like this by their, from their benefits?

COMMISSIONER REARDON: Let me address this, because we've had a lot of conversations about this. There's information on the Key Bank site, there's information on the DOL Site and there's information on the packet that comes with the debit card. First thing, it's always better to have direct deposit into the bank account. That's the best way to get it, it's the fastest way, the most convenient. If you get a debit card, they list on their sites and on the card, on what comes with it, there are over a thousand sites in New York State outside, it's a network, outside of Key Bank, where you can withdraw your money fee free. And I can't remember the name of it at the moment, I can get it to you, but there are over a thousand of these sites. They're available, they're in all five boroughs of New

York City, why people line up in front of the one branch on East 31st Street, I don't know. But they are also telling them there you don't have to a Key Bank in order to withdraw without a fee.

If you use the debit card outside of the network, yes there is a fee. Same thing with, I bank at a credit union and I have a network and I try to use that network, but if I have to use another one, that's what I do. It's called All Point Network and they have over a thousand branches available fee free with your credit card, you debit card.

And just to set the record straight, only 20 percent of our participants get the debit card, 80 percent have it direct deposited. And if you want to change to a direct deposit, you can go on the website, do it yourself automatically. It's safe and then your money goes right into your bank account.

SENATOR HOYLMAN: It seems to me though that we should be doing everything we can to make sure that, you know, that these benefits stay in the pockets of the recipients. Is it something

you may consider looking at changing in the future with your contract with Key Bank? I mean they are taking on a very important responsibility during this pandemic.

COMMISSIONER REARDON: We can certainl have any number of conversations with them, but it is standard practice. Again, my credit union has a large network where I can withdraw for free but they're not everywhere, so if I --

SENATOR HOYLMAN: I would argue, respectfully, this is not a standard banking procedure, this is banking in the middle of a pandemic.

COMMISSIONER REARDON: They still have over a thousand places they can withdraw for free and they are noticed everywhere on the websites, on the package. We can certainly have a conversation to see if they want to expand their network. But they can also transfer to their own bank account if they'd rather not struggle with a debit card.

SENATOR HOYLMAN: Thank you very much. Thanks for looking into it. I appreciate it.

Joint Hearing COVID Impact on Workforce, 8-13-20

COMMISSIONER REARDON: Sure.

SENATOR RAMOS: All right, thank you, Senator Hoylman. Up next we have Senator John Liu. You have three minutes to ask your questions.

SENATOR JOHN LIU: Thank you, Madam Chair and thank you commissioner, for being with us this whole time. Actually Assembly Member Members Bronson and Simon already asked questions along the lines of my questions but you didn't have a chance to respond to them because they ran out of time. So with regard to the digital marketplace employees, I know you had mentioned there is a lawsuit going on with the Uber drivers right now. But it is my understanding that ultimately, many of these drivers did get their unemployment insurance. Is that correct or what happened there?

COMMISSIONER REARDON: Many of them di I mean there was no set policy one way or the other. The UI and PUA rules were determined by the federal government and we follow them. That's all can I say about the lawsuit. But like many

Joint Hearing COVID Impact on Workforce, 8-13-20

people who work in the gig economy, they got most of them got on to the PUA benefits without a problem.

SENATOR LIU: Okay. So, I mean --

COMMISSIONER REARDON: [unintelligible [01:43:43] in that area.

SENATOR LIU: I just seem to recall that at toward the beginning of the administration of the unemployment benefits that many of these drivers were left out in the cold. And so was that --

COMMISSIONER REARDON: Not so much drivers, but for people who were going to be able to get the PUA benefits, originally the federal government had a regulation that said they had to apply for unemployment, be denied and then apply for PUA.

SENATOR LIU: Got it.

COMMISSIONER REARDON: People thought that they were denied for benefits. We fixed that. On April 20th, we rolled out the new Google application that was a seamless way for people to be guided to one benefit or the other. But

unfortunately in those first weeks, people thought they were being denied benefits. They were not. That was just the federal regulation that got in our way.

SENATOR LIU: Well they, I mean from their perspective, and we also have to try to put our ourselves in the shoes of our constituents, from their perspective, they were denied. And they were, in fact, based on what you were saying, they were told they had to be denied first for unemployment before they could get the PUA. So that's what happened. Okay. There's nothing that DOL could have done differently there.

COMMISSIONER REARDON: No. After we the application, we dealt with it with a tech fix. But we, remember, we did not get guidance from the federal government on how to administer that until April 5th.

SENATOR LIU: All right. With regard to lessons learned thus far, and I know we are all learning a lot of lessons, what has transpired with the digital marketplace workers that can

probably be applied going forward long after we hopefully get out of this pandemic situation?

COMMISSIONER REARDON: In what regard?

SENATOR LIU: Well, so, for example, they were somehow afforded unemployment benefits, right. I mean from their perspective, it is unemployment benefit.

COMMISSIONER REARDON: They were afforded pandemic unemployment assistance by the CARES Act. That is not straight up unemployment insurance. And it's a --

SENATOR LIU: Yeah, but it's still called pandemic unemployment assistance.

COMMUNITIES REARDON: Yes. But it's not UI. And that's a significant difference and people need to understand --

SENATOR LIU: I understand it's not unemployment insurance per se, that it's -- but it's still unemployment assistance, which somehow connotes that they are employed. So all I'm saying is that -- and my time is up. I don't want to keep you much longer. But we need to figure out how to move forward here recognizing that

these drivers are just really not independent contractors, but are employees of employers, which is why they're getting unemployment assistance. Thank you.

SENATOR RAMOS: Thank you, Senator Liu. That actually exhausts both the Senate and the Assembly lists when it comes to questions. So we are, as chairs going to be asking a second round of questions, and I will begin. I wanted to ask about something you said earlier, commissioner, with regard to voluntary agreements when there are complaints. And I'm wondering what it is that if these voluntary complaints don't take place, how is it that any of these conflicts are resolved, is there any enforceable law, I'm sorry, when it came to the voluntary resolutions.

COMMISSIONER REARDON: Mm-hmm. So, we work on a compliance model and we work and we do this, we did this before the pandemic. We did it in a lot of situations. We go out and we work with the employer and we say, you know, these are the issues that we see in your workplace. These are the things you need to remediate. And for the

most part, they do. And you know, we're very happy with the results. You know, very rarely do we have to follow up and do any kind of, you know, further work with them.

SENATOR RAMOS: Thank you. With regard to the DOL having obviously more servers, you still can't actually apply for PUA in Spanish, let alone other languages. You need to call to receive language access and yet people haven't heard from your department in months. How are, you know, are any efforts dedicated to ensuring that non-English speaking people are being prioritized in any way and made sure that they're able to access their benefits?

COMMISSIONER REARDON: So, fortunately we do have some agents that are bilingual and we use them first when someone calls, particularly in Spanish because that's the most generally, you know, that's usually the second language that we have available. And if they do not have someone who can speak in that language, then we have to use language line, and we use that all the time. Unfortunately, it takes longer, as you know, it

takes longer because you speak in one language, it translated, so it doubles the time. And that's just the nature of the business. We print up, all of our printed material is printed up in six languages. We are working on some of our automated phone lines and we're getting them translated into Spanish first and then perhaps into other languages. We understand the issue.

We recently had a meeting with a lot of the advocates for these other language groups to make sure that we were all working together and they were very helpful, and, you know, we are happy for the assistance. I understand the difficulty. The governor takes it very seriously --

SENATOR RAMOS: But you're not telling me how you are addressing the problem. How are people who don't speak English going to be able to access their benefits, when it's been increasingly frustrating for them to do so?

COMMISSIONER REARDON: When someone speaks in another language, if we do not have someone on, available in the telephone claim

center who speaks that language, they have to use the language line. They call the language line for whatever language is spoken, and that person translates. And that is the system that we've always had. We are actually trying to automate some of our automated responses in Spanish. That's actually being worked on right now. And we hope to real that out soon so you can understand when you go to certify, all of that it will be in Spanish as well, and that is what we are doing.

SENATOR RAMOS: All right, one more. When asked about gig workers, you responded with answers about PUA, but the point is that they're not eligible for UI, they're actually eligible for unemployment insurance and not PUA. You can't get PUA if you're eligible for unemployment insurance. If you had to process their unemployment insurance applications, workers wouldn't have had to worry about PUA. That's why I understand there was the lawsuit about Uber and Lyft. What have you done to implement the Postmates decision? When did the DOL begin to make app-based employers contribute UI fund and

Joint Hearing COVID Impact on Workforce, 8-13-20

when will you receive earning data from app-based employers?

COMMISSIONER REARDON: That's all unde litigation and I can't comment on it.

SENATOR RAMOS: Okay. Well, then in that case, can you answer why if quarantine leave guidance can be expanded, like it was for certain healthcare workers by the Department of Health, so more essential workers can qualify without having to go to their local health department?

COMMISSIONER REARDON: I'm sorry. I don't understand. Ask me again. I didn't -- I don't understand.

SENATOR RAMOS: Sure. The quarantine leave guidance can be expanded, or can it be expanded like it was for certain healthcare workers by the Department of Health. Is that something you're able to do in order to cover more essential workers who can qualify without having to go to their local health departments?

COMMISSIONER REARDON: I'd have to loo into that. I don't have an answer for that. I can get back to you.

SENATOR RAMOS: Okay. And by any chance if we go back to my first question, has your staff given you the guidance from your website that I had referenced before?

COMMISSIONER REARDON: So the return t work talks about UI, it talks about what happens when you get an offer, when you can decline the offer. That's the UI part of it. Is that, if that's what you were talking about, that really is how I'm being called back to work, I don't feel safe, what are my options? We talk about, you know, the COVID reasons for not going back to work. I think there are seven, the federal government listed them out. And you can, if one of those is your reason for not returning to work, then you can turn down the job and you qualify, I think usually for PUA in that instance, because PUA is actually for COVID reasons. That's one of the reasons PUA was invented, to cover people to have COVID reasons for not working.

SENATOR RAMOS: But PUA is not included the in guidance. It is not in the document.

Joint Hearing COVID Impact on Workforce, 8-13-20

COMMISSIONER REARDON: It is, they're telling me. Let's take this offline. I'd be happy to have that conversation, but, you know, this is about how you can return to work and how you can turn down work.

SENATOR RAMOS: Okay. All right. Very good, thanks. I'll yield my time, and I believe Assemblyman McDonald, do you have more questions?

ASSEMBLY MEMBER MCDONALD: Yes, actu I really don't have a second round except for chairs. Kevin Byrne got tied up in a meeting so we're going to ask if we can give three minutes for Kevin to ask some questions of the commissioners, and then the assembly will rest.

SENATOR RAMOS: All right, and then we have Senator Skoufis.

ASSEMBLY MEMBER MCDONALD: Okay, gre Thank you.

ASSEMBLY MEMBER KEVIN BYRNE: Chair McDonald, and commissioner, for your testimony. Like Chairman Abinanti, I was multitasking with another meeting as well, and I was able to hear bits and pieces. I do want to

start first by thanking you personally for directly reaching out to me. I know you reached out to colleagues throughout this pandemic. We had hundreds of constituents in my district going through this very, very painful process, having been forced to go on unemployment, waiting for, quite frankly, months to not just get checks but in some cases just to get some answers. And in many ways I think you would accept that members of the legislature, our offices in some ways became an extension the Department of Labor just by the very nature of the constituent services we were providing.

So I did want to at least thank you. It's pretty clear to me, and this is not a criticism of you or the department necessarily, but that we were unprepared because this was such an unprecedented virus. And I don't think any state was fully prepared for this. But now that we're, you know, we've flattened the curve, that the infection rate is lower, that we're preparing for the potential second wave, and I understand that there's going to be the financial component

Joint Hearing COVID Impact on Workforce, 8-13-20

to this from the state and the federal government that we're always going to be looking for. Are we prepared, is the state Department of Labor prepared with its website, with its phone systems? I know you increased capacity with other I think outside, I'm not sure if telemarketer is the right word but people answering the phones. It's not the right word. Call centers, right, there it is, call centers.

COMMISSIONER REARDON: Yes.

ASSEMBLY MEMBER BYRNE: Fair enough. Okay. Do we have that built in? Are you ready? Is the Department of Labor ready, so folks who are forced potentially to go back on unemployment and I really hope that does not happen, for many reasons -- are we ready to make sure that they don't have to wait months and months and go through every state legislator, every senator, congressperson? I'm happy to provide constituent services, a great part of our job, but I would rather they just get something that's owed to them up front.

COMMISSIONER REARDON: I'm with you. S

yes, we have done a tremendous amount of work to update, modernize, digitize our system. We have a chatbot on our website now that can answer all kind of questions for people. It won't answer about your individual claim yet but it can answer how do I file? This has happened, what do I do? It's a really useful tool. We also have greatly expanded the number of people working in the telephone claims center. We have almost all of the staff of the DOL now has at least some training on how to work on UI. Our inspectors in worker protection know how to do it. Our career center workers know how to do it. Our executives know how to do it. I've worked on the phone. Many of us have. So we are ready.

And we know that should the second wave come, we know where the pain points are, we know where to focus our efforts. One of the things that we did that was really critical that we didn't realize until this pandemic hit, we live if an on-demand society now and people expect answers immediately, so we have now set up a robust communication tool that sends out texts

and e-mails. You're at this stage of your process. Congratulations, your claim is being processed. Don't forget to certify every week. Here's your DocuSign for your back certifications. We send out, last weekend we sent out a mass e-mail about the President's memorandum because we knew people were puzzled. Does this mean I'm getting more money or not? So we sent out a quick message by e-mail and text to over three million people in the system saying this is what the memorandum does. Nothing is coming now. We will alert you when you need to do anything. Please don't call the TCC because we have to help other claimants. It worked beautifully.

ASSEMBLY MEMBER BYRNE: Thank you, commissioner. I know I'm out of time. I'll just say I still have some constituents with outstanding claims that will reach out directly to your office, and thank you for sticking it out and answering all of our questions.

COMMISSIONER REARDON: Thank you. They're not telemarketers.

ASSEMBLY MEMBER BYRNE: Yes. Call center, right.

COMMISSIONER REARDON: Yes.

ASSEMBLY MEMBER MCDONALD: Thank you

SENATOR RAMOS: All right. James Skoufis, round two.

SENATOR SKOUFIS: Okay. Thanks very much. And I just have a couple of additional questions, if I may, and thank you for spending now the entire morning with us. First, very specifically, if you have a construction site, out-of-state workers who have driven to this New York construction site, the contractor has not employed local labor. Do the quarantine rules, if those out-of-state workers come from a state on the governor's list, apply to those workers? Do the fines apply to the workers and/or the employers, the contractors, et cetera?

COMMISSIONER REARDON: So this is a question that has come up. We can look into individual cases. I mean, by and large, essential workers are essential workers and so they don't, you know -- if I'm an essential worker and I have

to go out of state to a state that's on the list and I come back, I'm not required to quarantine if I'm well. So that's --

SENATOR SKOUFIS: So these are not New York, so these are people who live in these other states who have been brought here to work for a period of time.

COMMISSIONER REARDON: Yeah. It's a complicated question, and let's talk offline about it. We've had a lot of conversations with various construction unions about it and various communities, so I'd love to have that answer but I need to know a little bit more about each thing. The question about the fines, fines for what?

SENATOR SKOUFIS: So I know there are $2,000 fines for individuals who don't follow this directive and self-quarantine after coming in through an airport or driving to New York, et cetera. So I'm asking if the fines apply in these cases, but it sounds like, as you said, this is complicated and it's --

COMMISSIONER REARDON: It's actually

Department of Health that oversees all of that. It's not the Department of Labor. So they would be able to answer that question better than I could.

SENATOR SKOUFIS: Okay. Got it. When filing complaints, I know this has come up from a couple of other colleagues, but one of the issues that I have heard from a number of people about, is the inability to file COVID-related workplace complaints anonymously. And despite your assurances, and I understand what you're saying completely, where you're not giving up the employee's name to the employer, I get that. But nevertheless, two things, one, if it's a very small business, there might only be one or two or three employees.

COMMISSIONER REARDON: Yeah, and you in trouble.

SENATOR SKOUFIS: And they may know where the complaint is coming from, even if you don't give up his or her name. And the other is despite any assurance like that, people just naturally are not going to feel comfortable one

way or the other giving their name on this form. And so what can be done in those kind of situations where you do have problems in a workplace and people either, they're just not comfortable or they're not in a position to file a complaint with their name attached.

COMMISSIONER REARDON: So we're a complaint-driven agency. That's the way it works for us. If a person, and, you know, as an actor, when as I often was the only actor on a gig, so if I had a complaint they'd know who it was, so I understand that scenario very well. If a worker feels very uncomfortable, they should by all means call our worker protection people and talk to one of them and explain the situation and see how they can work it out. Because more than anything, we want to make sure that the worker is protected and that they are treated according to the law. So they should pick up the phone and call the DLO number. It's much easier to get through to worker protection than it is to UI, and talk to somebody and we will make every effort to protect them.

SENATOR SKOUFIS: Okay. Great --

COMMISSIONER REARDON: Because that's what --

SENATOR SKOUFIS: No, I appreciate that. That's helpful information. And just lastly a comment, I know you had mentioned availing your representatives to come to our districts or virtually or in person, come to our districts for events. I just wanted to bring to your attention we actually were planning an event that my office was hosting. We tried actually three times to get someone from your department to join us. We were met with unresponsiveness. And so I just want to let you know to flag that. You've offered it to all my colleagues here, and to just bring to your attention that there just needs to be a bit more responsiveness.

COMMISSIONER REARDON: Yeah, just let know because that should not happen.

SENATOR SKOUFIS: Thank you.

SENATOR RAMOS: All right, we have one last round of second questioning, Senator Jackson.

SENATOR JACKSON: Sure, hi commissioner.

SENATOR RAMOS: And then we're moving on to the second panel.

SENATOR JACKSON: Yeah, hi. Hi, commissioner.

COMMISSIONER REARDON: Hi.

SENATOR JACKSON: Just glad you're still hanging in there, and you have answered most of the questions. I just have a question about DOCCS summer teachers. As you know, they were not getting unemployment because of COVID, but my understanding was that gig workers like Lyft and Uber got. Will they be treated the same, meaning that they should be entitled to unemployment insurance during the summer?

COMMISSIONER REARDON: So we're lookin at all of this. I mean, part of the issue for teachers is that they typically work a 12-month contract, and, you know, so those are the rules that apply to them. We are looking at individual cases. I know it's different now. The pandemic has changed everything for everybody. So we are definitely taking it under advisement. But as you

know, a lot of teachers actually have a 12-month contract and that's the problem.

SENATOR JACKSON: Okay. All right. I would just ask to raise this as an issue, that not only downstate but it's all of the correction facilities in the state of New York.

COMMISSIONER REARDON: Yes.

SENATOR JACKSON: Thank you. Thank you, Madame Chair.

SENATOR RAMOS: Amazing. Assemblyman McDonald, would you look to introduce the second panel?

ASSEMBLY MEMBER MCDONALD: I will think co-chair Tom Abinanti just wants to say goodbye so if we can unmute him for a second, he wants to say goodbye to the commissioner, like we all do.

ASSEMBLY MEMBER ABINANTI: Yes, commissioner, I just want to thank you for being with us this morning, and I look forward to taking you up on your offer to have a conversation about where we go from here. I do think we're going to need some state legislation.

Joint Hearing COVID Impact on Workforce, 8-13-20

I think we're going to need some cooperation between the executive branch and the legislative branch and I look forward to working with you very soon --

COMMISSIONER REARDON: Thank you.

ASSEMBLY MEMBER ABINANTI: -- becaus

really need to address some of the things that you highlighted as to where we go from here, so thank you very much.

COMMISSIONER REARDON: My pleasure.

Thank you.

ASSEMBLY MEMBER MCDONALD: And, thar

you, commissioner. We are now moving on to panel number two. So if we could allow Karen to join us, there she is, she's on the screen. Do we have her video? There she is.

MS. KAREN CACACE, LABOR BUREAU CHIEF, NEW YORK STATE OFFICE OF THE ATTORNEY GENERAL:

Hi, good morning.

ASSEMBLY MEMBER MCDONALD: So, from

New York State Attorney General's office, and Karen, I apologize, I'm a pharmacist, I'm not a linguistics expert but it's Karen?

Joint Hearing COVID Impact on Workforce, 8-13-20

MS. CACACE: It's Cacace.

ASSEMBLY MEMBER MCDONALD: Cacace, v

good. You have five minutes for your testimony, thank you.

MS. CACACE: Thank you. Good morning, committee chairs and members. My name is Karen Cacace and the I'm the bureau chief for the New York State Attorney General's Labor Bureau. I want to you thank you for convening this important hearing at such a vital time for workers of all levels and in all industries throughout New York and for giving our office an opportunity to share our recent experiences, feedback and insight.

Today's hearing offers many of us working on labor issues in New York State the chance to report back on how the state system and laws have fared under extreme stress from the coronavirus and resulting economic toll and to discuss possible legislative and policy changes to address any such issues.

At the outset, I want to note that Attorney General Letitia James and the rest of

our office continue to appreciate the strong and constructive relationship between our office and the legislature and with other issues we've worked on together. We offer our time and any relevant expertise we may have to assist with legislative objectives of these committees or legislative leadership or other individual legislators.

Following the governor's executive order 202.8 that required businesses deemed nonessential to reduce by 100 percent their in-person workforces, our office began responding to workers throughout the state to who were unsure if their employer could legally require them to report to work on Monday, March 23rd. Over the past nearly five months, our office has received over 12,000 inquiries from workers regarding whether they should be allowed to telecommute, health and safety requirements for workplaces that remained open, employer obligations under the new state and federal paid sick leave laws, and most concerning to our office, allegations of retaliation against workers who complain about

Joint Hearing COVID Impact on Workforce, 8-13-20

unsafe working conditions in work places that remained open.

We created a comprehensive know your rights brochure, which we published on our website, and sent to all workers who contacted us by e-mail. The brochure will be attached to our written testimony. In collaboration with the state Department of Labor, we have responded to these workers' inquiries and concerns, provided information about the constantly changing workplace health and safety requirements, and contacted employers to discuss discussion a resolution of the employees' concerns.

Our office has directly contacted over 850 employers and in more cases these conversations, resulted in employers voluntarily agreeing to comply with the applicable laws without need for further action by this office. The employers allowed employees to telecommute, improve safety standards, agreed to compensate employees for sick leave, and reinstate workers who had been fired in retaliation for complaining about health and safety conditions.

In some cases, however, employers did not initially agree to comply with the executive orders of the health and safety requirements, the entire [unintelligible] [02:08:06] laws and the new sick leave and emergency quarantine laws. In those cases we sent formal demand letters. To date, we have sent 80 of those, which resulted in those employers complying.

For those employers who appear to have failed to remedy or correct their unlawful practices, we have opened formal investigations including one into the practices at Amazon's fulfillment center on Staten Island.

This crisis has demonstrated that many employees in low wage jobs are absolutely essentially to the functioning of our economy and society, even in a pandemic. But unfortunately, are not adequately protected by existing laws. Protecting these workers requires, among others things, stronger safety standards, increased protection from retaliation, elimination of non-compete requirements, and updates to the unemployment insurance laws.

Our office also welcomes the opportunity to share our input on any ideas that the legislature is [unintelligible] [02:08:57] to strengthen worker protections.

Regarding safety standards, because OSHA has failed to create standards to protect workers from COVID-19 specifically and airborne illnesses generally, the state can and should create specific enforceable standards for all industries. These standards should also cover employer provided housing. It is imperative that employers be required to provide safe working conditions for their employees. This is true in any time, particularly during this pandemic. The legislature can mandate that the Department of Labor and Department of Health create these standards and empower our office to enforce them.

As I mentioned, employer retaliation against employees who speak up about health and safety concerns is one of the chief concerns in this office in recent months. We have seen several situations where employees raised concerns about safety issues at their workplace

and were fired soon after raising those concerns. This has a chilling effect on other workers. Workers should not have to choose between keeping their jobs and advocating for safe working conditions. New York's current whistle blower law, New York labor law 740, is limited to both the type of activity it protects and the remedies it provides. In order for worker conduct to be protected, the worker must oppose action by the employer that violates a law, rule or regulation and the action must create a substantial and specific danger to public health and safety. This restricted definition should be broadened.

In addition, currently employees may only get obtain back pay reinstatement and attorneys fees as a remedy. For employers of low wage workers, the financial risk of retaliation is much too low to deter them from taking action against employees who complain. In order to sufficiently deter employees and to adequately compensate whistleblowers who risk their jobs, employers should also be liable for additional damages.

Another area that I would like to highlight is non-compete clauses and labor contracts. Non-competes signed by employees and usually required to start or continue a job prevent employees from working for that employer's competitors or starting a competing business after they leave that job for a certain amount of time in a certain geographic area.

Historically, non-competes were used sparingly for executives with trade secrets or confidential business information and these executives were typically represented by lawyers who negotiated the terms of the agreement with the employer. In recent years --

SENATOR RAMOS: Karen?

MS. CACACE: Yes, oh, sorry.

SENATOR RAMOS: You're actually out of time.

MS. CACACE: Okay.

SENATOR RAMOS: Thank you so much for your testimony. I'm sure hopefully the rest of your testimony will correspond with the upcoming questions. And first up is actually the Assembly

on this one.

ASSEMBLY MEMBER MCDONALD: Very good

And Karen, thank you for your testimony. There was a little bit of feedback so I may have missed parts of it, so this if this question is repetitive I apologize. But have we seen a significant increase in violations in employees' rights and protections during this time, these last three or four months? And really what should we be advising our constituents, the employees, to be on the lookout for?

MS. CACACE: Well, what we have seen the increase in is concern about whether they have to go to work, what the safety conditions are when they are there, retaliation if they're complaining about safety conditions. That is all new related to the pandemic. There are continuing ongoing issues of minimum wage and overtime but the complaints coming in to us have been COVID-related, the vast majority.

ASSEMBLY MEMBER MCDONALD: And when do these investigations, is it mostly interaction just with the complainant? There must be

Joint Hearing COVID Impact on Workforce, 8-13-20

interaction with the employer group as well, correct?

MS. CACACE: Yes, right. So that's what I'm saying, that there were 12,000 inquiries came in. Out of those cases, we felt it was necessary to speak with 850 employers, so and those 850 cases, we have contacted the employer and have tried to explain to them what their obligations, and in most of the cases they were able, they were agreeable and remedied the situation.

ASSEMBLY MEMBER MCDONALD: That's encouraging to hear. I can tell you as an employer myself, it's been challenging to follow the shifting sands of what we're supposed to do if you're well-intentioned. And we also know that there are some employers that are not well-intentioned and those are the ones I would hazard a guess probably weren't as cooperative with you, but thank you. Senator, back to you.

SENATOR RAMOS: Thank you, John. And thank you, Karen, for testifying with us today. I'm a little -- I want for you to elaborate a little bit on what you said in terms of the

restrictive definition when it comes to I guess whistleblowers, and you mentioned another issue that keeps being brought up. It has to do with minimum wage and overtime and overall compliance with wage laws. Can you tell me how rampant these concerns are and what can be done through your office or beyond to address that?

MS. CACACE: Right, so for the whistleblower laws, it's New York labor law section 740 and it requires that if a worker is concerned about the safety condition at work and they oppose it, their activity is only protected if what their employer was doing violated a law, rule or regulation, so it has to be specific, that there's a specific law, rule or regulation that was at issue, and that it is a substantial threat to public safety.

So the pandemic actually is one of the rare circumstances that I think leads to claims that arise under this law, that the activity is covered because workers are saying it's not safe for me to go to work, and if we do have an executive order, particularly focused on safety

conditions, we can say that's the law, rule or regulation and it is a threat to public safety. But if, and I'm sorry. One of the lines, I didn't catch that in my testimony was the need for more clear safety regulations and laws, because there are many industries it's not clear exactly what the employers need to do, and so that's something I would encourage the legislature to take a look at to see if there is room to regulate because then it would be we would be able to enforce that, and everyone would be able to enforce that.

SENATOR RAMOS: Thank you so much. And how do you feel about expanding partial UI?

MS. CACACE: Yeah, I was going to get to that. That was later on --

SENATOR RAMOS: I figured.

MS. CACACE: -- in the testimony. And so absolutely. So, the way partial unemployment works, that was very confusing for workers. I think it is difficult for the Department of Labor administer. If you work even one hour one day you're disqualified for that entire day and that could be even if you're doing work that you're

not actually getting paid for, your own business type of thing. There's a much simpler way, is just to actually subtract the amount of wages that you earn. If you work part-time, you earn a certain amount, and that's what the Department of Labor could look at, and many other states do it that way. So I would certainly encourage Albany to look at an amendment, and I think that you've already been doing that, to focus on amending the UI law in that way.

SENATOR RAMOS: Thank you. So before I yield over to the Assembly, are there any other mechanisms that would be helpful to you and your office in order to address health and safety concerns? Whether they be legislative or otherwise.

MS. CACACE: I think legislation really would be important to address the pandemic going forward. As we all know, as people are going to be back to work, there are more and more concerns about what does the workplace -- what is a safe workplace, and I think there is room for the state legislature to fill the void that the

Joint Hearing COVID Impact on Workforce, 8-13-20

federal government has left and to create those safety standards so that we will be able to enforce them.

SENATOR RAMOS: All right. Thank you.

ASSEMBLY MEMBER MCDONALD: Thank you the Assembly Member Harry Bronson.

ASSEMBLY MEMBER BRONSON: Thank you Thank you, chairs. You brought up some statistics regarding the number of complaints, I think it was 12,000 inquiries. Do you have the breakdown of the numbers by industry?

MS. CACACE: I don't have it with me, but we could find that and provide that to you.

ASSEMBLY MEMBER BRONSON: All right That would be helpful for us so that as we develop future policies, we can determine whether it's an industry-specific problem or if it's all industries or something of that nature. How about demographics of the workers? By race, by gender, et cetera.

MS. CACACE: That we do not, I don't think we collected that information. I don't know if we'll be able to tell.

ASSEMBLY MEMBER BRONSON: Okay. And you have information of those inquiries or complaints broken down by the wage level of the workers who came to you?

MS. CACACE: I think for most, we probably could provide that.

ASSEMBLY MEMBER BRONSON: Again, tha would be helpful. As we know, many wage theft violations occur for low-wage earners.

MS. CACACE: Yes.

ASSEMBLY MEMBER BRONSON: Not others And then lastly, you started to talk a little bit about the non-compete clauses, what your office did. I'd be interested in having you complete your thoughts about what it is about the non-compete clauses in connection with COVID.

MS. CACCE: Thank you. Particularly, I was going to mention the low-wage workers and healthcare workers, and so in these industries where there really is not about a reason to have a non-compete clause, it is -- these jobs still exists and for a lot of low-wage workers they are essential workers, and to not allow them to get a

different job that might be safer working conditions, let's say for healthcare workers, I just think it's really wrong. And so I think that the legislature can take action to address the validity of the non-compete clauses, so we really encourage you to take a look at that.

ASSEMBLY MEMBER BRONSON: Okay. And may or may not be aware, a number of years ago about a decade ago, there was a law passed that prevented non-compete clauses in connection with small media markets and with reporters shifting jobs. So I would be interested in working with your office to see if we can really narrow the parameters of non-compete so it really addresses the issue. And that is, you know, professional managerial folks who might to go a competitor and have trade secrets. I mean that's really the purpose there. The downside of non-competes is that it prevents people from being gainfully employed after they leave an employer.

MS. CACACE: Yeah, we'd be happy to work with you.

ASSEMBLY MEMBER BRONSON: I look for

to having those conversations with you.

MS. CACACE: Thank you.

ASSEMBLY MEMBER MCDONALD: Senator, to you.

SENATOR RAMOS: And I'll throw the ball to --

SENATOR SKOUFIS: You cut out there.

SENATOR RAMOS: Sorry. I was introducing you. I was introducing you, Senator Skoufis. I'm so sorry. It's your turn.

SENATOR SKOUFIS: I just wanted to be sure. Thank you. And thank you for your testimony, as well as the Attorney General's and your whole team's leadership over these past five months making sure that our workers are protected. So I just am looking for some clarity myself, and I suspect that if I don't have clarity, there are many thousands of my constituents that don't have this clarity.

Can you speak to I guess the distinction between violations that are handled by the Attorney General's office versus violations that are handled by the Department of Labor. Are there

Joint Hearing COVID Impact on Workforce, 8-13-20

areas of jurisdiction? Is there a complete overlap? Who handles what kind of violations? Where do people go, if you can speak to that.

MS. CACACE: It's an excellent question, and it evolved during the last five months because our office just did not have enough staff to answer 12,000 inquiries. So we collaborated with the Department of Labor and through that partnership, we were able to respond to all of these workers who were calling. And so Commissioner Reardon described some of have some of the investigators at the Department of Labor were doing the initial contact with the workers and potentially with the employers.

If they were -- if the Department of Labor was not able to resolve it, they were and are continuing to refer cases to us for enforcement. So, we are continuing to ask people to file the complaint on the Department of Labor's website if it's a COVID related issue and they will then take the first, you know, sort of the first crack at trying to resolve it and then referring it to us.

SENATOR SKOUFIS: Got it. That makes perfect sense. I thank you.

ASSEMBLY MEMBER MCDONALD: Assembly, would be Jo Anne Simon. We hear her. Here she is.

ASSEMBLY MEMBER SIMON: Okay. It's tim for them to send you the signal that allows you to support video.

ASSEMBLY MEMBER MCDONALD: We should have lead-in music or something like that.

ASSEMBLY MEMBER SIMON: Yeah, exactly Anyway, thank you very much, Ms. Cacace for your testimony. I have a couple of questions for you and I think that like a number of people I probably didn't hear everything you said terribly clearly. There is something of an echo, at least as I'm hearing it.

But the issue about 740 and the need to change the definition of what would constitute the basis for a retaliatory claim is a question I've been trying to get some movement on this in the legislature. We have two bills, for example, and this may be an injudicious question, but there are two bills out there that would address

some of the issues you've raised with regard to 740. I'm curious whether your office is familiar with those bills and/or has an opinion about which way they would need to go. There are some differences, availability of damages, not availability of damages, those types of things, but they address that issue about 740. And I'm curious about that.

And then the other thing is the safety standards you talked about. Do you believe those should be legislatively established? That's my other question.

MS. CACACE: Yes, I apologize for the audio. Is it better with the headset?

ASSEMBLY MEMBER SIMON: Much better.

MS. CACACE: So sorry. So, yes, on 740, we are aware that there are different bills pending. Our hope really is just that it is expanded. And both bills expand coverage of what's protected, and I believe expand damages that are allowed. So it's just really important to us that some expansion happens, and so I hope that can happen quickly because, as I said, it's

-- we are seeing -- people are calling us. And a lot of people asked questions about this during the first panel.

What about workers who are afraid to report safety standards, safety violations? It is an enormous problem for workers. It puts their job at jeopardy. And so the more protection, the better, and it is really desperately needed. So I would just really encourage you all to expand it in whatever way you can agree on.

And then your second question -- I'm sorry, could you remind me?

ASSEMBLY MEMBER SIMON: You talked ab

the need for --

MS. CACACE: Safety standards.

ASSEMBLY MEMBER SIMON: -- safety standards as they return to work.

MS. CACACE: Right.

ASSEMBLY MEMBER SIMON: And housing a

well.

MS. CACACE: Yes, right. Because right, there's a lot of farm workers where there's employer-provide housing and in some other

industries as well. And there is, you know, the executive orders provide some specifics but not enough, I think, to cover all of the safety concerns that workers have and are going to have going forward. And so I think that there could be legislation that will require either the Department of Labor or the Department of Health to go industry by industry and mandate what those safety standards are.

And so some of this has been done in the forward documents that have been put out by the state but I think it certainly could be strengthened through legislation.

ASSEMBLY MEMBER SIMON: Thank you very much.

MS. CACACE: You're welcome.

SENATOR RAMOS: Thank you. Senator James Sanders, you have five minutes.

SENATOR SANDERS: I have to get up to unmute. I'm here. Thank you. I have to jump up to exercise, exercise. Thank you, Madame Chair. Thank you, Mr. Chair. Let's see. Thank you very much for coming to testify to us. Can you tell me

-- I want to go back, I just have one question and I'll be finished in one minute. Let's go to the issue of the undocumented workers. Is there any way that we can sue to see if we can't get their needs met? They're by and large not being met in this economy, and that is so dangerous. Is there anything that the AG's office can do here?

MS. CACACE: So all of the labor laws with the exception of unemployment insurance cover undocumented workers. So, if an undocumented worker is not paid the minimum wage or overtime, we absolutely can and have sued on their behalf and recovered them wages. If they are a whistleblower and they fall within the whistleblower law we can sue on their behalf. They are not however, if don't have work authorization, eligible for unemployment insurance, so that's an enormous gap.

SENATOR SANDERS: Okay. Can I encourage guys to continue bouncing this around to come up with some -- you're office has been very creative. We really need to bounce this around to see how we can protect these workers.

MS. CACACE: It's an absolute priority for us.

SENATOR SANDERS: Okay. Thank you. Thank you, Madam Chair.

ASSEMBLY MEMBER MCDONALD: Thank yo

and back to the Assembly and Marianne Buttenschon. Come on down. Or come on in. How's that?

ASSEMBLY MEMBER BUTTENSCHON:

very much. And thank you to the Attorney General's office as well as my colleagues. I just have one question in regards to you talked about the 12,000 cases that you're working on, and I appreciate those efforts. Are you hearing in regard to -- we have been receiving comments that an outside entity is identifying themselves as a Department of Labor and asking personal information from individuals that have not applied. And I just wondered if it's outside of the state or is it an in-state issue and what's the status that the office has been able to work with those.

MS. CACACE: Yeah. So we have certainly

Joint Hearing COVID Impact on Workforce, 8-13-20

gotten complaints of identity theft or identity fraud related to filings of unemployment insurance claims. So we have in our know your rights brochure information about where to report those, and we have coordinated with DOL and referred any complaints that we have gotten to DOL on those.

ASSEMBLY MEMBER BUTTENSCHON: work in progress that's progressing? I guess that's the question more.

MS. CACACE: Well, I mean it's on an individual basis, you know, for each person, and I'm looking in our know your rights brochure, so I can tell you exactly where to, uh, to report it.

ASSEMBLY MEMBER BUTTENSCHON: will reach out to your office later.

MS. CACACE: Yeah, and it'll be in our testimony. We're attaching all the know your rights information, which goes on for like 15 pages, so it's very detailed.

ASSEMBLY MEMBER BUTTENSCHON:

MS. CACACE: You're welcome.

SENATOR RAMOS: All right. Up next is Senator George Borello. You have three minutes. Senator Borello? Senator Borello going once. Senator Borello going twice. All right. I suppose we yield to the assembly for this turn.

ASSEMBLY MEMBER MCDONALD: And back you. We're going to give you a former assembly member in return, Shelley Mayer. Don't forget where you came from, Shelly.

SENATOR RAMOS: Don't forget where you are.

SENATOR MAYER: Thank you. Thank you both. Thank you and thank you, Karen, pleasure to see you.

MS. CACACE: You too.

SEANTOR MAYER: Let me start my video. One, as you know, I want to thank the Attorney General's office for their willingness to jump in on the WARN Act action in my district involving the layoff of over 200 people on Christmas Eve with no notice, and were it not for your persistence and willingness to enter into this case, I'm not sure we would ever have had a path

Joint Hearing COVID Impact on Workforce, 8-13-20

to recover for these individuals. But it brings up the issue of what we're going to do about the WARN Act. On the Department of Labor's website today, there's probably 20 major institutions that have filed WARN Act notices as they are beginning to close or lay off large numbers of people including the Metropolitan Opera, Neiman Marcus, Restaurant Associates.

What is the Attorney General planning to do to ensure that every one of these employees in these mass layoffs gets both the money they are entitled to and every other protection they are entitled to, given our very poor experience with the employer at the Double Tree Hotel.

MS. CACACE: So thank you for bringing Doral to our attention and thank you for bringing this up now. I think that you are right, that employees may not know about their rights under WARN Act, and if employers are not advising them of that, it is incumbent on us to reach out to them to make sure that they do know. So it's something that we can -- that we should and we can do some outreach on.

Joint Hearing COVID Impact on Workforce, 8-13-20

SENATOR MAYER: Well, to that point, I mean, I think we need to clarify that the Department of Labor can intervene as a party in these lawsuits, otherwise, there really is no advocate, and I hope you will support me in a bill to both expand the liability for large employers and to ensure that the Department of Labor has standing to intervene.

MS. CACACE: Yes.

SENATOR MAYER: Secondly, during the period of the pandemic, do you know how many enforcement actions the Department of Labor has commenced as a result of violations of provisions of law related to employees during this time?

MS. CACACE: I don't have that information, no, but I'm sure we can ask the Department of Labor.

SENATOR MAYER: No, I meant from you, from the Attorney General's office, affirmative actions that you have commenced during this time.

MS. CACACE: Oh, we have not actually sued anybody in court yet. So we have, as I said, hundreds of employers that we have reached an

informal resolution with and we have ongoing investigations, but we have not -- we haven't sued anybody yet.

SENATOR MAYER: And finally, did the Attorney General's office advise the Department of Labor on how to interpret the PUA requirements that you actually apply and be rejected by the Department of Labor? Were you advising them on how to interpret the federal regulations?

MS. CACACE: No.

SENATOR MAYER: No? Okay.

MS. CACACE: I don't think so, no.

SENATOR MAYER: Thank you. Thank you very much.

MS. CACACE: Sure.

SENATOR RAMOS: All right. Thank you. I have actually just one more question for you, if that's okay, based on some comments that you just made about acknowledging issues with wage theft in our state, unfortunately. We recently re-passed the SWEAT bill in both houses of the state legislature, and you know it's largely baited on the mechanics' lien, yet there has been some

conflict around how it is that -- whether there's going to be an ex parte judicial review before a lien is actually placed on the employer's assets, which largely we see as not only a reason to dissuade particularly undocumented workers from seeking relief, but also gives the employer an opportunity to transfer assets. Does your office take a position on the SWEAT bill? And if not, is there another mechanism that you guys are advocating for in order to solve this $1 billion problem?

MS. CACACE: It is a bill that our office has been in support of. And the issue that you identified is a significant issue, and so we would very much like to see it come into law as it is.

SENATOR RAMOS: All right. Well, thank you very much. And I guess that concludes our questions for you.

ASSEMBLY MEMBER MCDONALD: Senator sorry. I'm sorry. We have a late bloomer, Chairman Tom Abinanti. Are you in or out, Tom?

ASSEMBLY MEMBER ABINANTI: I'm in

in. Thanks.

ASSEMBLY MEMBER MCDONALD: All right then that'll be it. Thank you.

ASSEMBLY MEMBER ABINANTI: Thank you joining us. I am actually the chair of the banking committee, so I want to ask you -- you may not be the person in our your office to respond to this, but the federal government used the banks as the way to funnel money into the states in an attempt to get the employers to keep people on their payrolls or put them back on, the PPP program.

Has your office had any involvement with that? Have you had any complaints about banks not doing what they were supposed to do or employers taking the money and then not funneling it back to the employees like they were supposed to? I'm just wondering if there's been anything involved in this. And who is doing the enforcement? Is this purely federal enforcement or do you have some role in enforcing this?

MS. CACACE: So those complaints have not come to the labor bureau and I can find for

you if they have come to another bureau within the AG's office and let you know.

ASSEMBLY MEMBER ABINANTI: Yeah, I w

appreciate that because I think we, in the banking committee, would like to hear a little bit about how that program is working its way through. We've already held a hearing on how effective it was about getting money out. Now we're to the next stage, okay, the money is getting out, is it actually getting to the employees.

MS. CACACE: Okay. We'll follow up.

ASSEMBLY MEMBER ABINANTI: Thank you

SENATOR RAMOS: We have another late bloomer. I understand state Senator George Borello is back. Is this true? Are you there?

SENATOR BORELLO: Yes, thank you. I was here the whole time, but I got kicked out.

SENATOR RAMOS: That's okay. You have three minutes.

SENATOR BORELLO: Thank you very much. First of all, thanks for your testimony. I appreciate it. I certainly appreciate all that

you're doing on of behalf workers and those folks that may potentially be taken advantage of, but also businesses, many businesses I spoke with have had reports of fraudulent paperwork or claims being filed by employees that either quit or never actually worked at the company. And I didn't hear you speak about any actions being taken to protect not only those businesses, because we talked about experience claims and the cost, the tremendous cost from an increased experience claim that were unjustified, but also bilking the taxpayers by having to might potentially millions if not more in unnecessary claims. So I'm curious what the AG's office is doing to address this fraud.

MS. CACACE: Those complaints have not come to the labor bureau. I would imagine that they're ever they're going to the Department of Labor, but I can follow up with the Department of Labor to find out if they are enforcing -- you know, if they've gotten those complaints and are taking enforcement actions. I know that in general on UI fraud, and I think Commissioner

Reardon testified about that, they are actively investigating an enormous amount of, unfortunately, UI fraud. But I can follow up on that.

SENATOR BORELLO: Yeah, because you had mentioned before that you were working closely with them because of the inordinate amount that they've had to really take on, the Department of Labor, and we all know this has been a tremendous strain on that, so I'd certainly like to ensure that we're also protecting those businesses that work so hard to provide employment to people. It's kind of a two-way street, I would say. We want to protect the businesses as well as the employees. So we'd love to see you get involved in that very actively. Thank you.

MS. CACACES: Okay. Thank you.

SENATOR RAMOS: All right. And, Karen, thank you for taking the time out of your day to testify and answer our questions.

MS. CACACES: Thank you for having me, and I'm so sorry about the audio earlier.

SENATOR RAMOS: That's okay. Thank you.

Joint Hearing COVID Impact on Workforce, 8-13-20

ASSEMBLY MEMBER MCDONALD: Thank y
Karen.

MS. CACACES: Bye-bye.

SENATOR RAMOS: Now for panel three, we have from the AFL-CIO, president Mario Cilento and legislative director Mike Nield. Gentlemen, can you share your testimony?

MR. MIKE NEIDL, LEGISLATIVE DIRECTOR, NEW YORK STATE AFL-CIO: Is Mario there? Hello, senator.

SENATOR RAMOS: Hey, Mike.

MR. NEIDL: Mario has the -- there he is.

SENATOR RAMOS: All right.

MR. MARIO CILENTO, PRESIDENT, NEW YORK STATE AFL-CIO: Can you hear me now?

MR. NEIDL: There he is.

MR. CILENTO: Yeah, can hear me?

MR. NEIDL: All right.

MR. CILENTO: Thank you, senator, and thank you all for holding this hearing today and for the opportunity to present testimony on behalf of the two-and-a-half million members of

Joint Hearing COVID Impact on Workforce, 8-13-20

the New York State AFL-CIO. I'll get right to it. We all know that countless workers continue to risk their lives and their physical well-being to serve all of us, and they deal with the mental toll because they're constantly worried about the continued risk of getting sick on the job and they're constantly questioning just the safety plans or the inadequate adherence to those plans.

So what we're saying is fines for inadequate safety plans and adherence to those plans must be steep. We've already passed a bill to establish safety standards in the public sector, and we should built on that by passing the New York HEROES Act to require safety and health plans specific to COVID-19 for private sector employers that also include workers participation and an enforcement mechanism.

We know in addition all workers, I think we all agree on this, I know we all agree on this, should have adequate PPE recognizing the unique nature of certain sectors, such as healthcare in preparation for a second wave, a 90-day supply of PPE should in place as well as

adequate staffing plans and backup plans.

For example, we all understand that reopening school building represents a huge challenge. We must have clear protocols for how and when school districts must close their buildings and how health officials will perform contact tracing and initiate quarantines in the event of a positive COVID-19 cases in schools. Most important, no matter what, we must act on the side of caution at all times. In the event that a worker is exposed in the workplace, that worker should receive the best available care at no cost to the worker, as well as wage replacement benefits and survivor benefits should, God forbid, they die. This can be achieved, as we've said, many times over the last few months, by establishing a rebuttable presumption on workplace exposure.

In addition, workers are economically stressed as well. We have to ensure prompt access to unemployment insurance benefits for everyone. We must remove hurdles for workers to access quarantine and isolation paid family leave

benefits. We have to reform the state's partial unemployment insurance standards to remove the penalty for part-time work. And we must remove restrictions on eligibility for unemployment for voluntary separation such as if an employee has a heightened health risk or is aware of unsafe conditions in workplace. And keep in mind because the UI trust fund is now below the threshold levels, there's not going to be an increase in unemployment insurance benefits this upcoming year.

The state also must fully implement the decisions from the Department of Labor, the unemployment insurance appeals board, the court of appeals and now the federal judiciary by processing app based works claims as unemployment claims and by compelling contributions from app companies to the unemployment insurance trust fund.

And speaking of app-based workers, I'm going to say it again, state administrative agencies and the courts have begun to reaffirm what we all know. These workers are employees.

Joint Hearing COVID Impact on Workforce, 8-13-20

The pandemic has highlighted the disparity between the rights of gig workers and employees. And if there ever was a time for the legislature to pass a comprehensive law to protect these workers, it is now.

Moving forward, we have to create middle class jobs, opportunities include increasing investment in public transportation, roads and bridges, telecommunications infrastructure, offshore wind, other renewable energy projects. Also, adult use marijuana can also bring in a new industry with solid wages for workers that can be invested right back into local economies. And somewhat related to all this is as we hopefully increase the number of New Yorkers getting back to work on a regular basis, funding and programmatic changes to ensure working families have access to childcare is critical. I have three daughters of my own.

Last, this pandemic has hurt workers, it's hurt poor people, it's marginalized communities while having less of an impact on wealthy. And we have heard over and over again

that people must sacrifice, and if that's the case, sacrifices must be made by all. And that's why we must raise revenue at all options, need and should be on the table.

With bold leadership, I think amongst everyone who's here today, we can protect all New Yorkers from the worst of the health and economic effects of the pandemic. And I have to say this is not just labor's hope, but on behalf of two-and-a-half million members and their families, it's our expectation.

So, again, I want to thank you for allowing me to join all of you today. We know that unemployment numbers, it was mentioned before at over 15 percent. It's much more than that, and we're going to have to address all of these situations, create jobs and make sure that everyone who is out of a job is taken care of properly. And I just want to say we look forward on behalf of the two-and-a-half million members of the state AFL-CIO to work with all of you to make sure that New York emerges stronger and healthier and more united as a result of these

Joint Hearing COVID Impact on Workforce, 8-13-20

joint efforts. So again, I thank you for allowing me time this morning and please all, stay safe.

ASSEMBLY MEMBER MCDONALD: Thank you Mario and Mike. It's good to see you as well. Jessica, why don't we start off with the Assembly. I don't know where you went, so I don't see you on my screen.

SENATOR RAMOS: I'm right here. Sorry. I fell off. I'm sorry. I apologize. Do you want to start with the Assembly again?

ASSEMBLY MEMBER MCDONALD: Let's sta with the Assembly. It's up to you. Well, yeah, we'll start with the Assembly. Mario, it's amazing that you are able to take your multipage report and condense into five minutes. Great job.

MR. CILENTO: That was not bad, right?

ASSEMBLY MEMBER MCDONALD: No, it wa pretty darn good and congratulations on your re-election. You know, your report was very thoughtful and very comprehensive. Actually I thought I was reading the state budget for a little bit, because it has a little bit of everything in it. And that being said, you know,

Joint Hearing COVID Impact on Workforce, 8-13-20

sometimes -- I like to paraphrase Dick Gottfried every once in a while. Plagiarism sometimes can a good thing. Are there things other states are doing? You're obviously the largest group in the state, but you also work across the country. Are there things other states that are doing that we really need to take a hard look at? To protect our employees.

Mr. CILENTO: That's a great question, John. And I serve on all these different committees with the nation AFL-CIO and we have meetings by region, we have national meetings, and there are some states that are doing some things. Some of them have the rebuttable piece for the workers' comp that the -- for workers' comp for those dealing with COVID. So I think there were 12 or 13 states -- you'd have to correct me on that -- who have already done something to address that. There are some other things here and there, but for the most part I have to say they have looked to us for leadership. We are the largest state labor movement in the country. And I would say the

workers' comp piece is probably the one that other states have taken a lead on.

ASSEMBLY MEMBER MCDONALD: Okay. How has, for your members, the unemployment process, and of course, it's a very bad situation for all of us to be in, but what has the feedback been from your membership who have been enduring the process?

MR. CILENTO: Well, look. It's been talked about quite a bit here this morning. I thought the commissioner did a great job. And I do want to say I'm very proud and we all are proud of the labor movement and the job that our brothers and sisters at CSEA and PEF did really throughout the initial period and that they continue to do. I would just say they experienced all of the sort of the hiccups at the beginning that everyone else has gone through, no more, no less than anyone else. And as we go throw it now and it's gone through the last month or two, things have gotten smoother, so they have seen improvements in the system that the commissioner was talking about this morning.

ASSEMBLY MEMBER MCDONALD: Great. Ar

thank you, and I thank you for your comments and response. Senator, over to the Senate.

SENATOR RAMOS: Thank you, assemblyman. President Cilento, I was hoping you can tell us a little bit more about the Postmates decision and what we think about come of it, what you think the DOL's consideration should be for app-based workers.

MR. CILENTO: Well, we feel that these workers should be treated as employees and have the, get under the employment insurance benefits as all other employees in the state. We feel that moving forward these workers should in fact be considered employees for all of the other rights and protections, whether it's minimum wage or overtime pay, the right to organize. We know that they're in discussions now and taking a look at where things are. But we do, in fact, would like them to follow the ruling as it was adjudicated, and that's our position.

SENATOR RAMOS: Thank you. And what about for quarantine leave? Have you heard of any

workers having trouble qualifying for it? What can we be doing in the state legislature and/or at the DOL to make it easier for them?

MR. CILENTO: Well, I think communication is most important. And again anyone who is required to take that type of leave should receive quarantine pay, so I think we need to have that communication and make sure that we understand why it is they were out, why they're coming back, what the situation is, and just make sure that they are paid.

SENATOR RAMOS: Okay. And I would imagine there's been a lot of concern around employers providing PPE. Of course, for non-union workers, but for union workers as well. How have you been fielding sort of those complaints from your own, the members of your umbrella union, so that we can help fight for better protections for them?

MR. CILENTO: Well, again, as I had said before, we want to make sure that there are standards in place and that the employers are held accountable. You've had many conversations

this morning. Most employers want to do the right thing. They really do. But to be honest, to keep the bad actors in place, we must have really strong standards and requirements in place, making sure that PPE, you have at least a 90-day supply, that, in fact, the workers in the workplace have a voice in what it's going to look like, what that workplace is going to look like moving forward, whether it's PPE, whether it's other standards, everything that is involved in how we're going to move forward.

So we've heard all of the, particularly at the beginning, about how sometimes it was a struggle to get employers on the same page. If you're a union member, it's a little easier obviously because you're going to have a collective voice, so I can only speak to that. And once the first few weeks went by, voices were raised, and it's been a little easier, but I would just ask all of you to work with us to ensure that the employers who may not be predisposed to being helpful here are held accountable. And the only way you're able to do

that is to put a financial component on it for them. So that's what I would ask, senator.

SENATOR RAMOS: What about in terms of the presumption of coronavirus? What impact has had that on your members?

MR. CILENTO: Well, you know, we don't have the rebuttable presumption right now. So what that means is if you are a grocery store worker, if you are a nurse, take a nurse who sees at the height of this thousands, thousands maybe patients in the course of a couple of days. If you're a grocery store worker, even now and you see hundreds of people come by the check-out line. Without that, you would have to actually figure out which customer gave you the coronavirus.

Think about that for a second. You'd have to figure out which customer, you saw 300 people come through your line today for eight hours, you're a nurse and you had 400 patients today and you're going pick out which customer or which patient gave it to you? What we're saying is for the presumption, it should be presumed --

it doesn't mean the employer isn't going to have the ability to contest it. They still are going to be able to do that. That's not taken away from them. What we're saying is presumptions should be if you are in a job such as that, under those circumstances, that they should have that presumption, and then move forward with the case at that point, from that point of view.

SENATOR RAMOS: All right. Thank you so much. It's good to see you President Cilento and be congratulations on your re-election.

MR. CILENTO: Thank you.

SENATOR RAMOS: The workers are very lucky to have you.

MR. CILENTO: You're very kind.

ASSEMBLY MEMBER MCDONALD: Back to t

Assembly. Harry Bronson.

ASSEMBLY MEMBER BRONSON: Thank you

Hello, Mario. How's everything going, and how is the start of your new term as president?

MR. CILENTO: So far so good. This is the most difficult day so far, so I'm not bad.

ASSEMBLY MEMBER BRONSON: You're amo

friends, so I think you'll be okay. I want to touch on a couple of things some of my colleagues have already asked you, but I want to delve into a little bit more. First of all, your comment about reaching out to labor and having you as part of the discussions, whether we're talking about PPE, we're talking about making sure that employees get unemployment insurance, the workers' comp, all of that. I'm a firm believer that if labor and management work together, then we usually come up with the best solutions. So I will definitely take you up on that so that the state can be part of those conversations.

Two areas, though, I want to hone in on a little bit. The first is the misclassification of workers or sometimes we refer to in current times as gig economy or app-based workers. You had talked about having app-based workers contribute to the UI trust fund.

MR. CILENTO: Employers.

ASSEMBLY MEMBER BRONSON: Pardon me

MR. CILENTO: The companies, not the workers, the companies.

ASSEMBLY MEMBER BRONSON: Yes. How c
you see that actually working? Because there's that constant debate, some of us believe that they're employees, others don't. How do you see that working with the app employers contributing to the fund?

MR. CILENTO: They'd have to go about it as any other employer would have to go through it in the state, which is having a finite understanding of how many workers there actually are at a given time who are out there working and what their hours are and compiling the same information that every other employer in this state has to go through, and by the way is subsidizing the app-based companies who aren't paying into the UI trust fund and the workers' compensation fund. So it's just the same rules would apply.

MR. NEIDL: I might add to that, Mario. Assemblyman, the courts are now finding that these are employees after several decisions. It's not just what you might think or we might think. There's rulings now that have found that they are

employees, and like every other employer, the DOL can charge them based on the payroll records. It shouldn't be that difficult.

ASSEMBLY MEMBER BRONSON: And I woul

suggest in response to that, Mike, we actually need to pass the legislation so it doesn't have to be litigated and make it clear, everybody will know who is an employee and the benefits that flow from that.

MR. LNEIDL: Right.

ASSEMBLY MEMBER BRONSON: In connect

with the rebuttable presumption, I think it's important for us to point out it's a rebuttable presumption. So the presumption is you got exposed to COVID at the workplace, but the employer can rebut that presumption. And so I think that that's an important distinction. Just real quick and my time is running out, Mario, the workers' comp system isn't really employee-based at this point. They're not neutral. And are there steps we can take to ensure that if we make this change, that the workers actually get their lost wage replacement and their medical care as

quickly as possible.

MR. CILENTO: Well, again I would say that as long as we classify these workers as employees, they would have the same rights and protections as everyone else, they would have to go through the same process, and I would be confident at that point that they would, in fact, receive the same benefits.

ASSEMBLY MEMBER BRONSON: All right Thank you so much.

ASSEMBLY MEMBER MCDONALD: Thank you gentlemen. Thank you. Senator.

SENATOR RAMOS: Yes. Senator James Skoufis, you're up next. You have your five minutes.

SENATOR SKOUFIS: Thanks very much. It's good to see you both. I echo my colleagues, congratulations, President Cilento on your re-election. You and I know, you all know there are some elements, especially on the far right, who have argued for as long as I've been involved in legislature, that unions have not been important and necessary since children were working 70, 80

hours, 100 years ago. But I think this pandemic is really exhibit A as to how important unions continue to be. And quite frankly, they are as important now that is they have ever been, in my opinion was as people look for safer workplaces to return to.

With that in mind a couple, sort of a multifaceted question, one, I know there's still some uncertainty, especially given what, if anything, is going to be in the stimulus for state and local governments that will impact what happens to your members in CSEA, ASFCME, PEF, et cetera, potentially. But can you share some insight as how this pandemic has impacted the roles, the union roles here in New York State.

And the second piece is I suspect that there are some New Yorkers who maybe were not as welcoming to joining a union pre-pandemic who maybe have seen the light now and want a safe workplace and want all the protections that are afforded to the members of a union. Is there an effort, a new effort underway, especially in the private sector side, to organize in some

industries and in some areas that maybe there wasn't a lot of attention paid to with that in mind? If you can speak to those couple issues.

MR. CILENTO: Yeah. Well, to get to the first part first, the role of labor at times like these. I think it's certainly heightened. I think members are in the most part aware of what their union does, for the most part.

When you have a situation like this or when you have a situation where you have Hurricane Irene, Hurricane Sandy and those situations, big, big large scale events where you have to have a union, where you have to have a voice in the workplace and it's even heightened, I think workers are even more aware of what it is that their union does for them, because whether it was unemployment insurance or workers' comp or how do you deal with an employer to reopen as they've been gradually reopening, workers are even more involved in the day-to-day workings of their particular union, paying even more attention than they normally would, that's our role. That's what we're supposed to be there for.

It's actually not a bad thing when members, you don't want to say take for granted, but when members aren't calling or maybe they're not part of every single thing or aware of every single thing, it sort of means that everything is going smoothly, right.

So you have a situation here where you have more involvements and that's been helpful because we've asked our members to poll their congressional representative, so we can get federal aid in to the state, right, into the states that need it, so they're more active in that end of it.

And as for the second part about organizing, most of our unions are out there organizing every day against situations like this, senator. You make a good point. It certainly heightens the awareness of those who aren't members to help us. In this state, we've been sort of fortunate anyway, we have two-and-a-half million members and it's the highest in the country, the largest in the country. But to your point, yes, it does heighten others' awareness

outside of the labor movement on why it may be important to join.

And it also gives them the understanding that what we fight for aren't just wages, right? People think of wages, vacation pay, all those other things. Now they're recognizing it's about having a concerted voice for your basic safety on the job, which a lot of people take for granted. So that's also heightened as well, and I would expect going forward, once we get past this --

SENATOR SKOUFIS: I'm glad to hear that. And hopefully that bears fruit in terms of the number of people who want to join union membership. I just want to clarify. My first question, when I spoke to union rolls, I meant r-o-l-l-s not r-o-l-e-s and I wonder what's the impact on the number of people in unions here in New York State, you know with all these businesses closed on the private side, have we seen a decline in numbers? What's been that impact?

MR. CILENTO: We didn't, we haven't seen a decline in numbers. What we have seen is a

greater number of members on unemployment. So whether if it's the entertainment industry, you know, there are some unions that are entertainment industry, over the last five months that are at about 95 to 97 percent unemployed; members in the hotel industry, hospitality industry, 97 to 99 percent unemployed. So they're still part of their union. They're out of work like everyone else is.

SENATOR SKOUFIS: Sure. Okay. Thank you.

ASSEMBLY MEMBER MCDONALD: Thanks, senator, back to the assembly. Ranker Brian Manktelow, you have five minutes.

ASSEMBLY MEMBER MANKTELOW: Thank y

Mario, could you explain something to me again if you don't mind. I come in a little late. You were giving the example of the grocery clerk or whatever that's working in the store. Can you just explain that to me one more time, please.

MR. CILENTO: Right. As things stand now, it would be incumbent upon the actual worker to prove that, for example, if you're working in a grocery store and you're working at the check-

Joint Hearing COVID Impact on Workforce, 8-13-20

out counter, in the course of an eight-hour day you might see 200 or 300 customers come by your lane. If you are a nurse and you are seeing a couple hundred patients, particularly at the heightened level that it was a few months ago, right now, you would have to point out which particular customer who came by on that line in that grocery store or that supermarket, gave you the virus. What we are saying is there should be a presumption that if you're in that line of work and that you are in that situation, that if you have contracted the virus, that you contracted it at work, so that you start from that beginning, from that premise. It does not preclude the employer from rebutting it and controverting the claim. It just means that you're starting from a different viewpoint to start the conversation.

ASSEMBLY MEMBER MANKTELOW: Okay. S

employee X comes in to work the cash out that day, employee X comes down with COVID two days later. How do we really know where that individual got the COVID from? I mean you've got to think about the employer as well because I

want these jobs to stay here. We need the jobs. We need the employers to do this. So how does that work? How do we know that individual didn't get it on the way in on the bus? And, in fact, maybe exposed some of the people coming into the grocery store, maybe some of or her coworkers, how do we differentiate from that?

MR. CILENTO: Right, it could be any of those. It could be the coworkers. It could be going in on the bus. It could be anything at any point. What we're saying is that if you are in that job during that time, that you would be presumed. Mike, am I missing anything on that?

MR. NEIDL: No, I think in the context of what you're asking, assemblyman, that we're looking for, and one of the things Assembly Member McDonald asked before is what can we look to other states. There's 12, 14 other states that have enacted a presumption like what Mario was describing. And your question, so the presumption is rebuttable, meaning the issues you're bringing up, if you can show there was a family member or a worker had traveled somewhere else and

contracted COVID elsewhere, that's a rebuttable presumption. But in the absence of that, it would be assumed they got it at work if they were otherwise healthy and went to work and showed up without having to go through those normal really excruciatingly long hearings to prove that you got it at work. That's the difference.

ASSEMBLY MEMBER MANKTELOW: As an employer, what right do I have to ask my employee what they did in their personal time when they were not at the job?

MR. NEIDL: That happens through the workers' compensation hearing process. The employer doesn't do that directly. That happens through the process.

ASSEMBLY MEMBER MANKTELOW: Well, N once it get to the workers' compensation hearing, everybody knows that a majority of those cases will side with the worker, and I'm not saying that's wrong or right --

MR. CILENTO: That's, that's not true.

MR. NEIDL: I would dispute that. I would respectfully disagree with that.

MR. CILENTO: That's not true.

ASSEMBLY MEMBER MANKTELOW: Do you what the stats are?

MR. CILENTO: You, you just said that they're mostly employee-related. What are the stats that back that up?

ASSEMBLY MEMBER MANKTELOW: I'm not saying that --

MR. NEIDL: The Workers'Comp Board has those stats. Those are obtainable. We see some, we think there's stats available soon related to COVID, specific to COVID, but that is information that the Workers'Comp Board does have, and there's an army of worker -- there's attorneys involved in this process as well, so there are a number of cases that controverted, and employers always have the right to question a claim by an employee that they were hurt at work.

ASSEMBLY MEMBER MANKTELOW: No, I understand that, but I just know that the numbers tend to side with the employee. It's pretty tough to reverse one. Once it gets to the comp board, I've been involved in this for a long time, once

it gets to the comp board, it's pretty tough to overrule that comp board. It really is.

And that's not my question. My question is how do we really know where the employee got the coronavirus, the COVID from. And I just want to make sure we don't get rid of after all our businesses. We have to make it work for both sides.

MR. CILENTO: And I would agree with you. Let me just say this. We don't want our employers to go out of business. We want to have that working relationship. And I think that's very important.

ASSEMBLY MEMBER MANKTELOW: Abso

MR. CILENTO: So let me just be clear about that, and that's why we go through the process of the Workers'Comp Board.

ASSEMBLY MEMBER MANKTELOW: And I you know, I love businesses, I love employees. I think as a business owner taking care of the employees is my number one asset, because they're the most important person to me in my operation. So I just want to be sure that we're looking at

it equally for both sides for both sides because I just don't want, you know, we have some of the best workmen's comp stuff in New York right now. And the other states are coming on board. They're not leading. We're still leading in that area. They're catching up to New York State.

ASSEMBLY MEMBER MCDONALD: Thank you gentlemen. And we'll move it back to the Senate.

SENATOR RAMOS: Thank you. Up next, we have Senator Jackson. Uncle Bob, your floor.

SENATOR JACKSON: I got to go because I got to ask this question. Thank. You're welcome, Bill. Hi. Okay, Bill. Thanks. All right. Thank you. Hi, Mario.

MR. CILENTO: How you doing, senator?

SENATOR JACKSON: I'm doing good. I was talking to one of our former union president, Bill DeMartino from Long Island, so he sends his regards. But let me thank you for your service and, Mike, let me thank you. I have a question about, I understand that the situation currently as it exists and I understand some of the questions that have been asked already and your

Joint Hearing COVID Impact on Workforce, 8-13-20

responses.

I am very concerned about the lack of federal money and that I'm so happy that our leaders Andrea Stewart-Cousins and Carl Heastie have come together to say that we need to raise revenue in order to save jobs and maintain the status for people to survive this pandemic. What is your position as the head of the union as far as us, if we have to raise revenue so there's no layoffs, you've heard them project 20 percent cut to education, 20 percent cut to healthcare, 20 percent cut to municipalities, and to agencies. So I'm very, very concerned about that, that that's the direction if we don't raise revenue.

So are we working together to raise revenues when we need to do that in order for everyone to survive? And especially our workers that are not collecting unemployment, they're not getting any other type of government assistance. These are people that are in desperate need.

MR. CILENTO: Yeah, thank you for that question, senator. Yes, we have long been, the state AFL-CIO, has long called for raising

revenue, whether that's tax increases on millionaires and billionaires, whether it's the stop transfer tax, whether it's the [unintelligible] [03:11:03] tax, our point of view is, as we said, any deficits we run are always going to be to hurt those at the bottom end of the economic scale more than anyone else because they rely on the services you're going to have to cut to bridge that deficit. So we have been working, all of our affiliates coordinating, not only here in the state but just so you know we coordinate with the other states to have them reach out to their congressional representatives across the country, to call for the federal funding. So, yeah, we have long been on that, and again, without it the services and the jobs, first of all you're going to lose X amount of jobs, whatever that would be. And the services that those workers provide are vital to the everyday lives of everyone across the states. And again, those at the lower end of the economic spectrum end up relying on those services more and have been hurt again. So we're with you on

that, senator.

SENATOR JACKSON: I appreciate that. It's imperative that we continue to talk about the options that we must look at in order to make sure that we sustain ourselves, so I appreciate you expanding on in your responses. Thank you, co-chairs.

ASSEMBLY MEMBER MCDONALD: Thank you. Back to the Assembly, oh, wait a minute. Where did he go? Well, I saw Nick Perry arrived. I thought he had his hand up and it may have been just to let us know that he's here, so senator I'm going to push it back to you until somebody else shows up.

SENATOR RAMOS: All right. Senator James Sanders.

SENATOR SANDERS: Thank you, co-chair.

SENATOR RAMOS: Five minutes.

SENATOR SANDERS: Absolutely. I'm not going to take that much, but a guy like Mario, he's got all the answers so I don't have to worry about that. Brother Mario, let me take you to the issue of undocumented workers, undocumented

workers. What's your organization, AFL-CIO's stance on this sir, on how do we aid the undocumented workers?

MR. CILENTO: They should have the same rights and protections. They go to work. They're in the workplace. They deserve the same rights and protections of everyone else, regardless of where they came from at any particular time. They're doing the same work as everyone else, as we see it, everyone is equal regardless.

SENATOR SANDERS: Well put, sir. Following up Senator Jackson's point, at the end of the day, if there is a budget shortfall, and I have no idea why anybody was looking to White House for aid to the states and cities, I have absolutely no idea. There's no history of this, and why anybody thought that we would get anything from that, I have no idea.

However, why is there a hesitation in some of the upper realms of New York State government in dealing with any of these taxes that you spoke of transfer, stock transfer, any of the one percent taxes?

MR. CILENTO: You know, I can't answer for anyone who opposes that. They're going to have to answer for themselves, and there are some are on record. I can only tell you, senator, that from our point of view, from the labor movement's point of view, we wholeheartedly support raising revenue in every way, shape or form necessary to curtail those cuts, to keep people working and to keep those services running, because without it, you're going to see cuts in education and healthcare and transportation and infrastructure and sanitation and law enforcement and firefighting and everything else across the board. So from our point of view, senator, we're on the same page, and we will continue to voice our support for the raising of revenue moving forward.

SENATOR SANDERS: There's only, as you know well, sir, there's only a couple of things that one can do when you're in a hole like this. You can hope to find money, maybe gold somewhere. It doesn't seem like it. You can raise taxes on those who have plenty, or else you're going to

Joint Hearing COVID Impact on Workforce, 8-13-20

cut to the middle class and to the working class or else you're going to cut social safety net. And those are the only choices that we have. And all of this other talk, whose ox is going to be gored, or we can just cut services left, right and center and make this a very unappealing state, and we're up to that level. Thank you very much for fighting for the working people of this state. You guys, while everybody else was running all over and hiding under the beds, you guys were up front, and I'm just scared that the essential workers today will become the furloughed and fired workers tomorrow. Thank you very much. Thank you to the chairs.

SENATOR RAMOS: All right. Thank you. We currently don't have any assembly members with their hands raised, so we're going to move on to state Senator Diane Savino. She has three minutes for her questions.

SENATOR SAVINO: Thank you. Good afternoon, Mario, and first of all, congratulations on your re-election. Obviously, people recognize how important you are and we're

Joint Hearing COVID Impact on Workforce, 8-13-20

so lucky to have you in the labor movement today. I just want to briefly touch on an issue that you and I and Mike and others have been working on for a couple of years now, and that's the issue of what we call the gig economy. And so last year, remember we introduced a bill at the end of the session, the Dependent Workers Act, and everybody hated about it. The industry hated and it workers hated it, and in fact I will tell you, I've gotten a lot of nasty e-mails in my career in the state senate but none was nasty as the e-mails I got from some people who insisted they did not need the protections of the legislature, many of them were freelancers, independent contractors, 1099ers who told me to mind my own business, that they didn't need any protections whatsoever, that they were happy with the flexibility that they had and the ability to negotiate the value of the labor that they were trading in this new marketplace.

And then the pandemic hit. And proverbial crap hit the fan, and we saw the effect it had on the UI system, as people who

were currently not eligible for traditional UI now becoming eligible under the pandemic assistance that the feds put in place. And so now we had thousands and thousands of people who are currently recognizing how important these workplace protections are.

So I think it resets the table for us in our discussion. And I'll just ask you your opinion on this. Two days ago, the CEO of Uber wrote an op ed for the New York Times about how they believe that Uber drivers and others should have these same types of protections and that they're prepared to create a third way, paying into systems, providing those workplace protections, but failing, or falling short on the definition of an employee which, of course, follows other protections.

So what I'm concerned about is people may jump on that and say, well, let's allow that to happen, but it excludes the most important protection that workers should have, which is, of course, the right to organize. So how do we push back on that and make sure that we use this

crisis to really fully flesh out that working people should have the same protections, whether they are obtaining employment through an app or punching a time clock somewhere, on working in a government agency?

MR. CILENTO: Great question, senator, great question. I read that op ed a couple of times and it just seemed to me that he wanted or he wants to provide some benefits for workers but on his own terms, right.

SENATOR SAVINO: Right.

MR. CILENTO: So in other words, I'll give you, you should have some benefits. We'll decide what they are. We'll decide how much we put in. But we don't want to be held accountable as every other business or enterprise in the state or in this country, right. So again, everything we already know. No minimum wage. No overtime. No workers' comp. No paid family levee. No grievance procedures at a time of COVID, where workers who are doing this kind of work have nowhere to go if they feel unsafe or if they, in fact, feel they could contract the virus. So it

seems as though it was on their terms. We're going to pick and choose. And remember now, if you do that, and there are certain things you provide, those workers in fact feel certain, they're certainly beholden to you in some way, but not really because you don't really have a voice in the workplace.

So we have to be careful of that, we have pick up, senator, from where we left off last year and finally pass the legislation that allows these workers to have a real voice on the job, have every other right as every other employee in the state, including the right to organize.

SENATOR SAVINO: Thank you.

ASSEMBLY MEMBER MCDONALD: Thank you

That concludes our comments from this panel. Mario before you leave and we take a little bit of a break, I would like to thank you. You mentioned something earlier in regards to the fact that you are reaching out across all the states to share the message about the work that needs to be done in Washington. And many of us in

Joint Hearing COVID Impact on Workforce, 8-13-20

New York sometimes worry because we tend to one of the blue states that our voices aren't being heard but we appreciate the fact that you're reaching out with your brothers and sisters to share that message because COVID-19 has impacted everybody in every state. It doesn't matter what political leaning they are. So thank you very much. We will be taking a ten minute --

ASSEMBLY MEMBER ABINANTI: Before yo

end, can I just jump in and join you in thanking Mario for joining us. Tom Abinanti here, I was listening very carefully to what you were saying, because I did not have any questions doesn't mean I wasn't paying attention. Thank you for joining us. I appreciate it.

ASSEMBLY MEMBER MCDONALD: And now t

that has been documented, we will now move on --

SENATOR RAMOS: Thanks, Tom.

ASSEMBLY MEMBER MCDONALD: -- to a 1

minute break. Why don't we say 1:45 because I want to get my coffee. Thank you for the panelists so far, and we look forward to finishing this up in a timely manner. So see you

Joint Hearing COVID Impact on Workforce, 8-13-20

at 1:45 live.

[OFF THE RECORD]

[ON THE RECORD]

SENATOR RAMOS: Thank you, we're back. And Assemblyman McDonald would you like to introduce the fourth panel?

ASSEMBLY MEMBER MCDONALD: Absolute Our fourth panel is a panel of one, but an important one, like they all are, but it's our friend Wayne Spence from PEF. Wayne, you have five minutes of testimony. Welcome aboard.

ASSEMBLY MEMBER ABINANTI: Panel of

ASSEMBLY MEMBER MCDONALD: It's good see you. Wayne, we need you to unmute yourself.

MR. WAYNE SPENCE, PRESIDENT, NEW YORK STATE PUBLIC EMPLOYEES FEDERATION: Okay. Can hear me now?

ASSEMBLY MEMBER MCDONALD: You're gr Thank you.

MR. SPENCE: All right, so thank you again for this opportunity, so to the senate chairs, Ramos, Sanders and Skoufis, thank you. To the assembly chairs Abinanti and McDonald, again,

Joint Hearing COVID Impact on Workforce, 8-13-20

thank you for this. If I was to read through my introduction I would run through the five-minute clock which I can't see. I could see that before.

So again, I want to take this opportunity to thank and just say a bit. I submitted something in writing more lengthy. But what I want to say is that at the start of this pandemic, New York State residents have had to realize the importance of government services and support. I represent 52,000 state workers in the professional, scientific and technical titles in the bargaining unit. So we represent workers that served on the frontline in the state response to the COVID-19 pandemic.

And what we saw from this from what happened was that chronic understaffing and under resource of state agencies led to really bad outcomes. I heard and saw the testimony earlier from the Department of Labor commissioner. The Department of Labor did not have the technology nor the manpower to process the wave of unemployment applications and the enhanced benefits afforded others under the CARES Act.

Joint Hearing COVID Impact on Workforce, 8-13-20

Several years ago, I testified in front of Senator Savino and I remember she saying to me back, I think in probably 2016 that we were at diminished return when it comes to the workforce. We weren't more with less, we were actually doing less with less. And that was so apparent during the pandemic. Years of two percent artificial budget lines of no increase beyond two percent led to some bad outcomes. And I'm hoping that we really take a look at this.

If there's no help from Washington, I guess we'll be looking at potential furloughs and layoffs. And what will mean to the state workforce that's already at a point of diminished returns in terms of the number of state workers that can do the job. Nursing shortages, that was so apparent. We have struggled and the SUNY hospitals struggled to meet their mission when it came to the COVID crisis. SUNY Downstate, SUNY Stony Brook have struggled.

Our members were left short staffed. They had to deal with failures of management to confront the imposition of mandatory overtime,

Joint Hearing COVID Impact on Workforce, 8-13-20

forced redeployment, hiring freezes, lower wages, challenging patient population and poor working conditions and staggering student debt loans, which has limited nurses to stay in the profession or even want to come into the profession when it comes to working for New York State government, especially at SUNYs in the capacity as a nurse.

Management other workforce planning problems, again we had to deal with issues around agencies that had to deal with the governor's directives about designation of essential versus nonessential personnel. It was a scramble from day-to-day when the governor came on television and would have his briefing. Because every briefing was almost like a gut wrench for me what is he going to say today that is not going to be able to work out when it comes to the state workforce.

It was almost two sets of rules, what the governor said seemed to apply to everybody else but their own workforce. Because there didn't seem to be any real direction from the

state commissioners of how was these things going to be implemented. You heard the governor said one person is going to get one PPE per day, but yet, we knew nurses were getting one PPE per week. They were telling to expect to use an N95 mask once a week. So then when I heard about the talk what happened in the second wave? What does a 90-day supply mean of PPEs? Does it mean that it's one respirator per patient, per nurse, as the N95 mask manufacturer said it should be done? Or is it going to be one per week? So what does a 90-day supply look like?

There's a host of things that we need to have some conversations about, that went wrong and should be addressed should and when another pandemic come about.

Again, my members are the ones who are actually processing the UI applications and we know it's been a disaster. How I know? I've experienced it myself. My daughter worked in a mall that was shutdown and had to go and apply for UI. My son had to do the same thing. And for them to tell me that it takes them two days just

to process an application online because of the software?

Again, PEF members are the ones that's blamed when these things happen and I'm hoping that we can look at those things and evaluate it and make sure we can come up with fixes for these things.

The overtime payments, so again to meet the crisis, many agencies have relied on mandatory or voluntary overtime. Staff at the Department of Labor were mandated to work 15 hours overtime a week, staff at the Department of Motor Vehicles are being asked to work six days a week, to cover expanded hours and staff. And staff at the Department of Health are being asked to work overtime as contract tracers at regional airports. But guess what? They're not being paid the same rate as what they were hired at. So for instance, you if were hired at a rate of $15 an hour, they're now telling you when you work at a airport, that's a clerical function, so you're going to $9 an hour. These are the things that's going on right now across the state.

Joint Hearing COVID Impact on Workforce, 8-13-20

ASSEMBLY MEMBER MCDONALD: Wayne, speaking of overtime, unfortunately we are overtime. But I know we're going to go back to this issue in our question and answer period.

MR. SPENCE: All right.

ASSEMBLY MEMBER MCDONALD: So, thank for your comments. And Pat, a mea culpa on my part. On the agenda I had, you were on a different panel by yourself but you're in there with Wayne, so Pat Kane from NYSNA. Welcome aboard.

MS. PAT KANE, RN, EXECUTIVE DIRECTOR, NEW YORK STATE NURSES ASSOCIATION: Thank you glad to be with my brother, Wayne. Hi everyone and thanks for the opportunity to testify this afternoon. So my name is Pat Kane and I am the executive director of the New York State Nurses Association and I've been a hospital-based RN for more than 30 years. NYSN represent more than 40,000 frontline nurses that reported to work every day during the worst of this pandemic and thousands of them became ill, many of them seriously ill, sadly some of them succumbed to

this disease and we still can't get an accurate count or information about those numbers.

We know that nurses worked in dangerous conditions without adequate personal protective equipment and Matilda's law did not apply to our most vulnerable nurses. Staffing levels were stressed to the breaking point and waves of COVID patients came through our doors. And as we struggled to cope with all of this, we were frustrated by constantly changing federal and state infection control guidelines. The DOH sanctioned the use of the CDC's downgraded protocols, including crisis capacity strategies and these are for use during a known shortage of PPE and they carry risks for our patients and our staff.

Many hospitals instituted policies that were even worse than the crisis guidelines and nurses were forced to provide care sometimes with only a surgical mass or reuse the disposable N95 respirators for as long as a week. In some places, management was using unproven methods to sterilize and reuse N95s, which the DOH also

reduced the guidelines that reduced the isolation and quarantine period for healthcare workers and this was dangerous for us and our patients.

We often received policy directives that made no sense and we were rarely if ever consulted or included in these decisions. So as we draw these lessons from this first surge, there are some things we would like you to address as we approach possible second.

First of all, we need to implement minimum safe staffing standards. Staffing was a huge problem before the crisis and the shortage of nurses and other direct care staff made us even more vulnerable. Minimum staffing standards applied to all hospitals would have reduced preventable deaths and lessened the inequalities that we saw and we often read about. We need to pass the Safe Staffing for Quality Care act to provide an adequate base to be able to surge capacity for future emergencies.

Second, we have to solve this PPE problem. We need to make sure that we have coordinated control over the production,

Joint Hearing COVID Impact on Workforce, 8-13-20

stockpiling and distribution of PPE to all hospitals equally, transparently and based on needs and not just hospitals, all the places that need it. We also need to move to reusable, elsatomerics and [unintelligible] [03:31:35] so we don't have to face this running out of PPE again. And this is actually going to save hospitals money and provide us with the protection that we need on the frontlines.

Third, we need to implement science-based standard infection control protocols and PPE standards that acknowledge that this is an airborne transmitted disease. We need COVID occupational safety standards to protect workers similar to the blood born pathogen standard that we do have.

Third, we need to protect nurses and other essential workers who are exposed or become ill. We need to have the same quarantine period, get the same days of paid sick leave that everyone else does for our sake and for our patients. And for those that become seriously ill or do die, we have to treat COVID as an

Joint Hearing COVID Impact on Workforce, 8-13-20

occupational disease and create a presumption that it's work-related.

Finally, we have to give healthcare workers and other essential workers a seat at the table. The state and local agencies talk to our hospitals and employers, they need to talk to us on the frontlines. We are the experts.

Lastly, as healthcare workers are still suffering greatly from all the trauma and harm they've endured during the height of the pandemic, now unbelievably, these heros after facing the fear of losing their lives to save others, are facing the fear of losing their livelihoods. They're being threatened with layoffs and furloughs as we speak. We've heard over and over that this pandemic is not over, but somehow healthcare workers, the frontline of this battle are now expendable.

You know, last year the WHO declared 2020 as the international year of the nurse and midwife, who knew what we were going to be facing. But they did that because the world needs nine million more nurses by 2030 to achieve

universal healthcare. So let's protect and grow one of our most precious resources both for our immediate needs during this time and also for our children's futures, so thank you for letting me testify.

SENATOR RAMOS: Thank you panelists, thank you so much for your testimony. It's very good to see you both. I wanted to begin --

ASSEMBLY MEMBER MCDONALD: Jessica, you there? Well, oh, there she is. Sorry about that.

SENATOR RAMOS: Sorry, about that, I just got dropped for a second. But I wanted to ask both panelists what happened to your members when they requested additional PPE? Was there any formal request that needed to be submitted? And then what was the process for that? And what were folks told, what were your members told if and when they were denied?

MS.KANE: Do you want to start, Wayne?

MR. SPENCE: Yeah, sure. It depended where it was. There was nothing consistent. Just so you know, we spent over quarter of a million

dollars purchasing PPEs, and most of the time we ran into bit problems trying to secure specifically the N95 respirators. The only place we could find them, where every state across the country, the whole world was looking for it was China. And what we found out was the ones we, when we did get them into the country, they turned out to be, they were fake. They weren't the real stuff. And so we tried to distribute them as much as possible. There was just not a consistent plan.

For example, there was a drug treatment center in Brooklyn and when this pandemic hit, if you remember it was during what was considered to be regular flu season. They had no respirators at all. They should have had something there. They were actually telling people how to make PPEs out of coffee filters. I had two members that died at that facility. About seven PEF members died as a result of exposure to COVID. One of them was a psychiatrist who worked at an OPWDD facility because that facility had no PPEs to give out. So we were literally life and death. We spent over,

we housed nurses from March 17th to May 22, we actually put up with dues money, nurses in hotels because there was a lack of PPEs for nurses and they were afraid to go home, because if you remember at that time, we'll bring you back, no one knows how the virus was transmitted, so if you had a vulnerable person at home, if you were living at home with your elderly parent, nurses were worried that they would bring it home and they would die. So you got nurses who actually live in hotels.

And when we asked SUNY, again, you ask SUNY who has campuses and housing to house nurses and they said to you I'll get back to you. They never got back to us. To this day, they never got back to us. We put people in hotels. And spend again, over a quarter of a million dollars out of our pocket.

Are we expected to do that again? When does the union expect to do these things? And are we expected to do that should a second wave hit? I want you guys to know that these are the things that we had to do.

SENATOR RAMOS: Well, thank God for the union, huh?

MS. KANE: Yeah, really. And just to add to your question, you know, after this all started in most places, the PPE was put under lock and key. And very often that was problematic for nurses to get into the manager's office on overnight shifts in particular, sometimes they had to call security. Now normally these things are out on the unit, they're available whenever you need them because that's where they should be in order to have everyone be protected.

In some places, when you received an n95 respirator, you actually had to sign for it and if you went back and asked to have another one before you had worked five shifts the supervisor would often ask you what happened to the one that you got last Thursday. Sometimes they would have to produce that one if it was broken. In some instances, nurses sent me pictures where they were told to staple a rubber tourniquet to the N95 when the strap had broken. So they were --

SENATOR RAMOS: Sorry to cut you off, I

have one minute and a half left and I want to ask one more question. Feel free to fold it in. I wanted to ask about overtime and hazard pay for both of your members both PEF and NYSNA. What has been the conversation around that, I mean we know that there's corona presumption issues going on for you guys as well. Can you speak to those types of issues that are happening to our essential workers?

MR. SPENCE: Just --

MS. KANE: Real quick and then Wayne can go. Our public sector workers who are hardest hit, you know, in the public sector we are not able to get any hazard pay, and the private sector some did. Go ahead, Wayne.

MR. SPENCE: Yeah, that's pretty much it. To date, not one public sector nurse or healthcare worker got any hazard pay while in some places like Long Island Jewish, they got $2,500, other places got one week of extra vacation. Nada. Zilch. Nothing. Heroes, what zeros when it comes to the state employees. That's it.

ASSEMBLY MEMBER MCDONALD: Okay.

SENATOR RAMOS: Thank you. I'll yield the rest of my time.

ASSEMBLY MEMBER MCDONALD: Okay. Bac the Assembly and actually, it's going to be myself. Pat, thank you for your testimony, I've had the privilege to listen in or interact with NYSNA for probably three days in the past week and a half. So your testimony is real and it's not being ignored or discounted, but I want to reserve some of my time with Wayne today on a couple of things because I really haven't had the chance to follow-up on some of the concerns that were raised earlier and Wayne has reinforced.

Probably within the last month, I remember seeing the release from you in regards to basically it mentioned to the governor about making sure that all the state agency buildings have the proper filters in place. This is kind of around the same time as a decision was made on what type of filter. As more science is evolving, it was recognized that there needs to be a certain MERV value for filters for malls and I

think around that same time, you in your leadership position put out a release about that. Have you had any response to that?

MR. SPENCE: Yes. The response we got from state was it's that we're working on it, as we bring people back in. And I believe it was a fair question to be asked. If you're asking malls to do this, then why are you not going to ask the state workforce in terms of the Harlem state office building, the office building in the Brooklyn state office building, the various state office buildings and even the ones that's under contract with private entities, with private landlords. I believe they should have the same value then, because then you send a message to the people that we do value you as a worker. And to date it's not consistent. We still haven't got a consistent response.

ASSEMBLY MEMBER MCDONALD: So have t

indicated like an assessment is being done or? I mean reality is we can't just replace them all in 30 days, more than likely. But there hasn't been we're doing an assessment? Or just working on it?

Joint Hearing COVID Impact on Workforce, 8-13-20

Is that what you're hearing?

MR. SPENCE: We heard that we're just working on it. And I didn't make a big issue about it, because what I was led to believe was telecommuting was working, so a lot of these places were not fully staffed and the number of staff was minimal.

ASSEMBLY MEMBER MCDONALD: Okay.

MR. SPENCE: But that's not what is going on now. More and more members are being told they are returning to work in full drove, not even staggered, but at full capacity, full-time. And so then, let's go back and have that conversation. Are we going to have those MERV-9 or higher filters?

ASSEMBLY MEMBER MCDONALD: I agree w

you on that and that's something we should be following up jointly. The other thing, it was mentioned about, I think it was during the Department of Labor commissioner's comments, basically, members of PEF and probably other organizations have been working and being paid at lower grade levels. Could you walk me through

that please, because that seemed to strike me a little bit odd.

MR. SPENCE: So when the big rush for UI claims hit and what we recognized was that the state system was antiquated. So let me give you an example. If you are a student or a parent filling out the FAFSA, you might have six questions. And if you don't know, say you don't have your social security number you can skip that question and go to the next one. Not with the state system. If you get to question six out of 12 and you can't answer six, you get timed out and you have to start all over again. And so that was frustration right there, so because of those things they said idea, let's see if we can get people to walk people through the application process. So you start asking state workers from other agencies to help in. So they said fine, I'll volunteer. I make $20 an hour, I could use the extra 15 hours. After they volunteered to do it, they were then told no, this was really a clerical function, so we're not going to pay you at your state rate, we're going to pay you at a

different rate, which could be $10 an hour.
People felt they were bamboozled into doing it.

ASSEMBLY MEMBER MCDONALD: Yeah, no, that's a little bit mis- [unintelligible] [03:43:11] that's for sure. Has there been any response from the administration about that?

MR. SPENCE: They felt that they have the right to do that. And so we've actually now taken the state to court on this matter and we didn't want to do that. We understand again that the state is in a financial situation. But have a conversation with us.

ASSEMBLY MEMBER MCDONALD: Right.

MR. SPENCE: Don't play three-card Monte with the members. Have a conversation with us about it.

ASSEMBLY MEMBER MCDONALD: I agree. Thank you. Senate?

SENATOR RAMOS: Thank you. Up next, we have Uncle Bob is back, who used to be a member of PEF.

SENATOR JACKSON: Once a member of a union, always a member of a union.

Joint Hearing COVID Impact on Workforce, 8-13-20

SENATOR RAMOS: Solidarity forever, brother.

SENATOR JACKSON: So let me just first thank Wayne and Pat for chiming in, because as you know, nurses were the frontline, along with doctors and everybody else that were dealing with this, patients from -- you know, those members of 1199 and all the other unions. And quite frankly, you deserve, all of you, deserve to be taken care of because you took care of hundreds of thousands of people that were our loved ones. I say that loud and clear. I know it, because Pat, I've been with the Zoom calls with your membership. And Wayne, you know, I'm talking to Darlene Williams, who is the region 10 which is Manhattan and the Bronx coordinator. So it's imperative to know how the members are feeling.

And then when I hear that if we don't get federal money and you know the state is considering to lay off 20 percent in healthcare? After everything that you all have done? Totally unacceptable by any standard, so I'd say to you, I want to know from you Wayne and Pat, what is

the morale of the people that you represent? Understanding one, they didn't get paid appropriate overtime and number two, as far as the projection if we don't get federal money, we don't raise revenue against the wealthiest New Yorkers that there's going to be layoffs in healthcare. What are the members saying to you?

MR. SPENCE: I will defer to Pat this time, let her go first, if that's okay.

MS. KANE: You know, the members are terrified about the possibility of a second wave, we're really not ready. They still really haven't recovered. I mean they're in the process. This is going to take a long time for that healing to take place, right. They have each other, they get a lot of support from each other. But the idea that they're facing now losing their livelihoods as well is very bad.

I mean, you know, just to have all that own you and have all that on your back, and then to kind of just be -- they feel like they are just expendable, that they're considered sacrificial. It's nice that people clap at 7:00

o'clock every day, and that helps I think, get the people through, to a certain extent. But they really feel like they have been used up, abused, and are now just being tossed away.

SENATOR JACKSON: Wayne, now that we have only about 17 seconds, can you respond to that as far as your members, whether they're in New York City or upstate New York, because you're statewide?

MR. SPENCE: They feel exactly the way Pat described. Basically, used heroes but now being treated like zeros, if you want to put it in a metaphor.

SENATOR JACKSON: Hmm.

MR. SPENCE: That's exactly how they feel.

SENATOR JACKSON: Well, thank you both for coming in and representing your members. It's imperative that union stays strong and you know Mario was on earlier speaking on behalf of all of the AFL-CIO and let me just thank the co-chairs for allowing me the time to say hello.

ASSEMBLY MEMBER MCDONALD: Thank yo

senator. Harry Bronson, state assembly.

ASSEMBLY MEMBER BRONSON: Hello, fo

Wayne, Pat, thank you so much for being here. And thank you for representing your members so aptly. I only have three minutes so I'm going to try to ask each of you one question and we'll do a minute-and-a-half. Pat, we'll start with you. We have had a couple of hearings in connection with nursing homes and things that we needed to do to make sure that we better provided for the residents and the staff people. Minimum nursing staffing came up repeatedly. Could you share with us the impact of staffing in the hospital setting?

MS. KANE: Sure. We saw, at the height of the pandemic, nurses being responsible for assignments that were up to four times what they normally should be. And another feature of this was that nurses were taken out of clinical areas, like I was an open heart OR nurse for 20 years. It would be like taking me and now putting me after 20 years in the open heart operating room on a medical surgical floor or in a medical ICU

with little or no training. So we definitely felt that -- nurses felt unsafe. You know, the liability, immunity is one thing, but we are held to a standard of care to serve our patients. It was very distressing. I mean some of our members were literally in tears what was going on with the staff.

ASSEMBLY MEMBER BRONSON: Thank you, Pat. That's an issue we have to work on both because of COVID and even predating COVID, making sure we have appropriate staffing.

Wayne, I want to talk a little bit about again, the nursing home, it's really congregate living. A lot of your members are in those settings, whether it's through the Office of Mental Health, the Office for People with Disabilities. Can you share with us what's happened in those settings for your members?

MR. SPENCE: Those settings, it was a disaster in the OPWDD settings and OMH setting. Especially in places like Creedmoor in Queens and in Rockland Psychiatric Center and some of the group homes. Literally, similar settings, but

Joint Hearing COVID Impact on Workforce, 8-13-20

when private nursing homes were requesting testing, you had to take a test, a temperature test in the very beginning, we were saying what is the difference between a nursing home, private nursing home and these congregate living? Why are we not doing the same thing? We were saying that in April. It took letters to you guys and the governor for the state commissioners to recognize that these things should happen. But by the time it did happen several of our members already died. Several residents died. You saw the New York Times reports, and it is a damn shame that you have to go to the New York Times to get a story out to save lives.

I personally lost two people that was in a nursing home. I lost my father-in-law and my uncle-in-law within a space of four weeks. They lived in nursing homes and I didn't want to see the same thing happen in congregate living. It's as if somebody think that the congregate living was somehow different than a nursing home and they were exactly the same. But no one listened to us and the expertise from our members until

after the fact.

And, senator I'm afraid that another pandemic, management, state management is going to take that high horse approach and disregard our members and the staff, as if they're disposable and that cannot happen. And I'm asking you to make sure that it doesn't happen.

ASSEMBLY MEMBER BRONSON: Well, th you, Wayne. And I certainly heard from your members here at the Rochester Psych Center about this issue and we need to take care of it and make sure that there's personal protective equipment, there are safeguards, there's tracing that's happening and things of that nature. So, thank you both Pat and Wayne for your testimony today.

MR. SPENCE: Thank you.

SENATOR RAMOS: All right, thank you. On our end we have Senator Shelley Mayer, three minutes.

SENATOR MAYER: Okay I will try to hurry up and get this on. Thank you, Wayne and Pat both, thank you for your work here. Two

Joint Hearing COVID Impact on Workforce, 8-13-20

questions, Wayne, how often during the pandemic and these issues of your members were you meeting with the governor's representative about the issues your members were facing?

MR. SPENCE: We tried to meet as fluid as possible. We understand again and again, I'm going to give the governor credit where credit is due. We watched him every day. And so while we were fighting about respirators, meaning the N95s, we know that the governor had something big on his [unintelligible] [03:52:33] could he get ventilators, so I tried to balance that.

And what we tried to do was we recognized from time to time that what was happening on the ground was not being telegraphed to Mujica, to Melissa, and to those people you saw on television. So we tried to, as best as possible, so from the point of March 17th until all the way maybe June, myself and my staff were working I would say 17-hour days. Most of the time our conversation with the governor usually happened on a Sunday, which was an off day and we tried to let them know what was going on.

But the frustration was that the departments were not being truthful to the governor. It's one of those things where the emperor had no clothes on. The governor would put out something, and he would say it on TV and then we kind of have an idea what was going on. But we didn't realize that that was not being translated down into what was on the ground.

For instance, PPEs, when the governor said one PPE per person --

SENATOR MAYER: Right.

MR. SPENCE: -- we had to then let him know it was not happening at Stony Brook, it was not happening at Creedmoor. And thank God for senate and assembly leaders like you, because when we then said to management it wasn't happening, it took letters to you, when we could cc you on a letter for them to draw. But that is that the way you should govern. We should not govern that way. And I hope that as we move forward that will not be the case.

SENATOR MAYER: Right. We need to do better. I'm not faulting the governor, but you

bring up a good point that we have not addressed enough, which is the shortfall on information, so thank you for that. And then, Pat, for your members that, you know, the need for hazard pay. So many of your members worked and got no additional funds, even though they were under extraordinary burdens and challenges. What is NYSNA doing to fight for, even going forward, to ensure there if there is another outbreak your members get hazard pay?

MS. KANE: You know, we've had multiple conversations with employers. You know, and I have to say, even some of our smaller community hospitals have come up with something.

SENATOR MAYER: I know.

MS. KANE: But the city was not able to do anything. And it's just really unfortunate, they were the hardest hit and they were really, you know, and to begin with their pay rate is lower than a lot of the privates, and there's still also private sector hospitals in other places, so we're just, we just keep trying.

SENATOR MAYER: Thank you. Thank you for

that. And thank you for what your members have done and continue to do. Thank you both, thank you. Thank you Madam Chair.

SENATOR RAMOS: Assembly?

ASSEMBLY MEMBER MCDONALD: Sorry. On

Assembly, it's now time for Nick Perry. Do we have Nick Perry in the house?

ASSEMBLY MEMBER N. NICK PERRY:

ASSEMBLY MEMBER MCDONALD: There he

ASSEMBLY MEMBER PERRY: Just trying to

get unmute, yeah.

ASSEMBLY MEMBER MCDONALD: There you

ASSEMBLY MEMBER PERRY: So I was -- le

me say hello to Wayne and my NYSNA chair, Pat. I listened to you, Wayne and I agree with you that we have an obligation as leaders in our state to make sure that first responders are not just hailed as heroes publicly for the show of it, but that they are never left to feel like zeros, as you seem convinced have been the case.

I received a tremendous amount of complaints about the PPE situation, the lack of it or the distribution of it. I also received a

lot of complaints about concerns with first responders that they were made to worry about their time back, because they did not -- if they felt, if they felt symptoms that they needed to get attended to, whether they could stay home and feel better before they report too, and all of those concerns that I think should not be among the matters when you are concerned about trying to be at work, to be there for those who need your services. What -- can you give me some response as to the level of that concern among your workers and how that might have impacted and affected their ability to provide the excellent service that they are trained to provide without that duress and stress that comes from the other stuff that's monetary at the end of it. And what recommendations you might have, both Pat and Wayne --

MR. SPENCE: Well, well, Nick, the stress of --

ASSEMBLY MEMBER PERRY: -- the PPE, regarding the protocol for supply and distribution, and who controlled that and what

Joint Hearing COVID Impact on Workforce, 8-13-20

recommendations -- what we could do to make it a better process as we move more into this pandemic control operations.

MR. SPENCE: So I'm going to take the last one first and go backwards. So, one of the things that would help, Nick, and I'm sorry, Assemblyman Perry, because we know each other, I don't want to be --

ASSEMBLY MEMBER PERRY: Nick is fine, problem.

MR. SPENCE: Part of the thing is this, when you hear and recently -- I'm going to use SUNY Downstate Medical Center. We recently had a meeting and they said they have a 90-day supply. How do you quantify a 90-day supply of PPEs? Is it 90-day supply based on the manufacturer's recommendation of one mask per patient? Or is it going to be one a week? Because -- or one a day? Because the 90-day supply, they need to quantify and qualify what the 90-day supply is based on because that 90-day supply could end up becoming only a two-week supply if they do it properly. So it would be great if we could put clarification

on what the supply is. If you go by the N95 manufacturer, it's supposed to be one mask per patient, because you can actually transfer the virus to other patients if you use it. But during the pandemic, we did what we had to do. But we should be beyond that now and be prepared to do it the proper way. In terms of being sick, if you come into the hospital now and say I have a scratchy throat, it's allergy season, they'll tell you to go home and get tested, COVID tested. But then they'll tell you, you have to take ten days. And if you don't have ten days, you're out of a paycheck for ten days. How is that right? Because that's what's going on.

ASSEMBLY MEMBER MCDONALD: Gentlemen thank you for your comment, we need to continue to move on. Back to the senate.

SENATOR RAMOS: Yes, up next we have Senator Skoufius, you have five minutes.

SENATOR SKOUFIS: Thank you very much and thanks to each of you for your testimony and for everything that your members have done over these past many months. So tomorrow, we're told

to expect the long awaited Department of Health study on staffing in hospitals, nursing homes and other venues. Obviously, this is I'm sure, of great interest to NYSNA, but PEF, you have significant interest I'm sure in this as well. You have nurse members and other members in healthcare.

I'm curious, what's been each of your union's involvement in that Department of Health study? Have they spoken with you much? Do you have any expectations as to what tomorrow's study will have? And where do you think we need to go from here?

MR. SPENCE: So the study was due back on the 31th of December.

SENATOR SKOUFIS: That's right.

MR. SPENCE: So, wow. Finally, so here's what, what are they going to say? One, I don't think they're going to say much. What I'm hoping that we will see out of this is stop ignoring the problem that we know exists and recognize that there's a need to attract and retain nurses and personal care staff. Lift the hiring freezes that

was established and go with safe minimum. And I'm going to let my NYSNA counterpart finish because I know our time is together, because I think we have some of the same issues.

MS. KANE: Sure, we do, Wayne, absolutely. And that I think that goes to the whole point of having the state staffing standard, right. So as far as how much interaction we had with the Department of Health during the study, I guess it's going to be fantastic because it's taken so long, very little in the beginning. We did have some interaction. But actually I think that that individual isn't even at the Department of Health anymore. So you know, very little, some in the beginning when it first passed, but really nothing since then.

You know, we've been at this fight for many, many, many years talking about how we need a minimum standard. And I think we've all seen how this disease has really laid bare the inequalities, the communities of color that were hardest hit, the hospitals hardest hit. And I think, you know, just as a basic principle, can

we agree that everyone deserves the same level of care and the same access to care.

As far as what they're going to say, I think it will be interesting. I expect they're going to say something along with the hospital industry has been saying about it's really hard to establish a number. And just guys, remember what we're talking about is a minimum standard, right. We do recognize that we do have to have individual standards in particular facilities, depending what's going on. But we have to start with a minimum. A minimum guarantee of what's going to be there in order to provide safe care. We've had staffing committees in contracts for a long time and have struggled with this issue and we need this legislative fix.

SENATOR SKOUFIS: As we look towards the next public health crisis, whether it's a second wave or some other pandemic, how important is this issue of staffing as we try to best prepare for the next time? Is it the most important issue? Is it top three? Making sure we have adequate staffing in hospitals and nursing homes

Joint Hearing COVID Impact on Workforce, 8-13-20

and healthcare facilities around the state. Can you give us as legislators some sense of just how important this issue of safe staffing is?

MS. KANE: I would say the most important.

SENATOR SKOUFIS: The most important?

MS. KANE: Yeah. We heard about bed capacity, we heard about ventilators all the time. I really very -- and, you know, we heard what was being done about staffing and getting volunteers as if people can all of a sudden know how to work in a particular facility or be trained to handle these kind of diseases. If you want to improve the outcomes and save more lives, safe staffing, I think it's the most important thing.

MR. SPENCE: Also, one of my biggest fear when I was hearing that was if you don't have the staff and you have the ventilators, who's going to operate them?

MS. KANE: Exactly.

MR. SPENCE: And as we saw nurses getting taken down because of the COVID

requirement, remember there was an exposure in the beginning, 21 days, we weren't sure how many days and how, so you had nurses who did not want to come to work and the management who did not want to bring the nurses in because we weren't sure in March how the virus was spreading. As we know more about it, we're still very cautious, but if you don't have the staff and you're not going to have it.

And there's another piece that we haven't spoken about was the post traumatic stress on nurses. These nurses that worked in these areas like in Downstate and in Queens, it was as if they were in a MASH unit, it was as if they were actually in a war zone, because that's what they experienced. If you were a neonatal nurse, if you dealt with mostly the delivering of babies, but then you were thrust into an ER and you watching people die by the minute, you're not going to recover from that.

SENATOR SKOUFIS: That's right. We actually spoke about exactly that at yesterday's hearing. It's important you bring it up. And we

have -- it has not been adequately prioritized. I agree with you completely, but my time is up. I thank both of you.

ASSEMBLY MEMBER MCDONALD: Thank you senator, and now we're back to the Assembly. Assembly Member Marianne Buttenschon.

ASSEMBLY MEMBER BUTTENSCHON: afternoon, thank you for being here this afternoon. I sincerely appreciate your leadership as well the hard work that your members have done throughout this horrific pandemic that we have faced. And I have heard from many of your members and many of my questions were answered today, but I just I wanted to follow-up a little bit in the question that was just recently asked in regards to your top three priorities as you see them today. And I know that safe staffing you said is number one. Could you just elaborate on those? As I'm very concerned about the mental health of your members as they are the individuals that face daily what so many of us just take for granted, as we know they're either working within our facilities or within hospitals or any other

area that they're providing the care for others that need it.

MR. SPENCE: Well, we've been trying to pass safe staffing for quite some time and I understand that management, the hospital administrators have come out and said no, it's not necessary it's not needed. I'm hoping this pandemic and the aftermath of that shows that we were woefully unprepared. And we need to go back and look at what happened in California. California passed it and hospitals did not close. As a matter of fact, certain diseases actually were more preventable, SARS and certain other things did not spread in hospitals when we went to safe staffing.

So to suggest that somehow, it would cripple the hospital industry in New York State, that's not true because it didn't happen. But, and I would hope that people recognize that we could have had much better outcomes and we did have good outcomes for the rest of the country. But it could have even been better. Remember when we were at 800 deaths per day? I don't want

people to ever forget that because that took a toll on our nurses. Nurses work shifts. And, in such a way where if you are working a lot and you don't get enough sleep, you are then susceptible to that disease because your body can't fight it off. So then, you're at a minimum staffing levels and we were beyond, we're lower than the minimum staffing levels, what did you expect in terms of an outcome? And what will people expect in the next wave when some nurses walked away.

Nurses quit at Downstate Medical Center. And some people are not looking to come back into nursing, based on what they went through and saw their loved ones went through. So we really need to get a hard look on what we're going to do to attract and keep nurses, especially within the state workforce and I'll defer to NYSNA.

MS. KANE: So, two other things. I mentioned the reusable respirators. We really have to -- just, the top three things related to this, to COVID. The reusable respirators, the elastomeric respirators, we actually have a pilot going on in Brooklyn. You know, we're really

Joint Hearing COVID Impact on Workforce, 8-13-20

depending on like charity to do this work. But that's a really big deal. Getting stuff like that, that'll make us more resilient and ready.

ASSEMBLY MEMBER MCDONALD: Thank you Pat. Thank you, Marianne. Back to the senate.

SENATOR RAMOS: Thank you so much. Up next, we have Senator Tom O'Mara, who as a ranker, has five minutes on the clock.

SENATOR O'MARA: I'm coming, sorry, I had to pull over. Thank you, can you hear me now?

MR. SPENCE: Yes, sir.

ASSEMBLY MEMBER MCDONALD: Yes.

SENATOR O'MARA: Great. I want to say thank you for the tremendous work of your membership throughout this crisis, it's truly been amazing. I have two sisters who are nurses and I know a little bit about anyways, what goes on and the issues you are faced with and have been faced with, with this. And I want to state for the record that I think one of the most insulting things we've seen, you were talking earlier about hazard pay and not getting any hazard pay, is that the governor actually froze

Joint Hearing COVID Impact on Workforce, 8-13-20

wage increases that were bargained for and contracted for prior to this disaster. And I think that just adds insult to injury for the great effort that your membership has put forth throughout this. And I have been outspoken about that wage freeze and continue to be here today. But I wanted to say thank you, I don't have questions for you. Thank you for you and thank you to all your membership for your hard work.

MR. SPENCE: Thank you, sir. Appreciate hearing that from you.

SENATOR O'MARA: That's all I have.

ASSEMBLY MEMBER MCDONALD: Senator, looks like it will be the Senate on the table now.

SENATOR RAMOS: Well, that's all that I have on my end as well. So I think all that's left is to say thank you to both Wayne and Pat and please extend our appreciation to your members.

ASSEMBLY MEMBER MCDONALD: Senator.

SENATOR RAMOS: Oh, someone else?

ASSEMBLY MEMBER MCDONALD: I think

you've got a couple names up there.

SENATOR RAMOS: Oh, on, yeah, you're right. I just got Andrew Gounardes, Senator Gounardes are you still here?

SENATOR GOUNARDES: Unmute, there we go, I'm here, sorry about that.

SENATOR RAMOS: Three minutes.

SENATOR GOUNARDES: Thank you very much. Thank you both Wayne and Pat for speaking today. You've answered a lot of questions about what your members faced, and so thank you for sharing their stories, their perspectives. I want to focus and I believe it was someone on the Assembly side who picked up the questioning with the labor commissioner about workplace complaints on the public sector side for employees that had to report to work for nonessential tasks. So this question is more for Wayne than for Pat, but Wayne, do you have examples or instances where your members were still told to come into work even though they were not deemed essential or they were doing purely administrative things that they could have been doing home and they brought

Joint Hearing COVID Impact on Workforce, 8-13-20

into work where without proper precautions and safety guidelines being adhered to?

MR. SPENCE: Yes, senator. We had members of ITS who were, who could have done work from home. They were told to go to the facilities, they had to take the train. And that's at the time when the train was now being filled with folks who did not have a place to stay, where there was a big homeless population on the train and there were no social distancing, that was not a big term them. They died. One of those people died actually, and we believe the contracting of that actually came from traveling on the train and that was not necessary at the time.

We have a person when there was a quarantine on people visiting private nursing homes, we had PWDD in Brooklyn that was running CPR training and the trainer was a woman who was six months pregnant. So she said, I am expected to do this. And if I don't do this, then I'm going to lose my job. I had to write letters to the commissioner of OMH with threats to cc the

letters to the New York Times and the Daily News. Why should we -- why isn't that common sense?

SENATOR GOUNARDES: So, let me ask you, since my time is running out soon, what was the response you got from the public employers when you brought that to their attention?

MR. SPENCE: Well, most of the time, we got no response and then we would have to go to Melissa or Mujica because GOER was silence also, and that's what it took. And at the time, Melissa and them, they were busy trying to find ventilators. They shouldn't have to deal with that.

SENATOR GOUNARDES: Right. Got you, let me ask one more question before my time expires. You know we passed a line of duty death benefit bill for public workers who die from COVID. We left out the question about long-term disability. I know it's still early. But for your members that got sick, for both Pat and Wayne, have you started to see any long-term effects from your members who have been sick with COVID and their ability to do their jobs right now? Or has not

yet manifested itself?

MS. KANE: No, it has manifested. I think it's the viral load they're exposed to, Andrew, or something. I mean it seems like even people who recover, it just does take the nurses longer and we are seeing people with long-term disabilities now.

MR. SPENCE: The same thing here. We have seen people who have gotten ill, who said that since they have come back to work, they are more fatigued. There seems to be a lot more long-term issues to somebody getting back to full health when they contract COVID.

SENATOR GOUNARDES: Okay. Thank you both.

MR. SPENCE: And thank you for what you're doing on behalf of the public sector workers, in terms of your bill, sir. I appreciate that.

SENATOR GOUNARDES: My pleasure.

SENATOR RAMOS: All right and then, I guess we don't have another assembly member on the list, is that correct, Assemblyman McDonald?

Joint Hearing COVID Impact on Workforce, 8-13-20

ASSEMBLY MEMBER MCDONALD: That's correct. We're good.

SENATOR RAMOS: All right. So then up next and to close for the Senate is state Senator Daphne Jordan. You have three minutes on the clock.

SENATOR JORDAN: Good, I thought you were going to forget me and I've had my hand raised since the beginning. But anyway, thank you to the panelists for your hard work and for the work that your members have done. We've touched upon mostly the physical needs and that would be PPE and proper pay and proper hours that your members need. And we've touched upon just very lightly, the mental needs and we don't see those. And so it is a problem, because I heard yesterday in the hearing for hospitals that that is something that affects everybody that has seen the tragedies of COVID. And I only saw news clips and I can't get those out of my head. But I cannot imagine dealing with all of that. Is there a program that you have set to help the mental health needs of the healthcare workers, of the

nurses?

MS. KANE: So, in our union at least, we do provide services through a company where our nurses can access 24/7, they can talk to a counselor that's credentialed and nurses have been availing themselves of that. You know, I think, you know, and a lot of hospitals have kind of put forward these self-care kind of things. It's very difficult to get the nurses to use the services. I think it's part of the nature of what we do. But I do think more time has to be set aside at the workplace. Because you know, group interaction and interaction with their colleagues that they've been through this together would really be helpful. I mean people do the individual therapy, but we would like to see time set aside out of their workday for this to happen.

SENATOR JORDAN: I do want to let you know that I did introduce a bill in May and it's Senate Bill 8371 that is modeled after the successful PFC Joseph P. Dwyer peer-to-peer veterans counseling program, but this would be

Joint Hearing COVID Impact on Workforce, 8-13-20

for our healthcare workers and it's called the Healthcare Worker Peer Support Program. So I am hoping that that gains traction and can help the healthcare workers that have seen the horrors of COVID.

MS. KANE: Thank you.

MR. SPENCE: I appreciate it. I hope that, there was not a lot of emphasis in some agencies on the EAP program, that's the state agency, the Employment Assistance Program. And I'm hoping that the state will actually recognize the need for it and fund it. And not just fund it, make sure that management understand that this is something that's necessary and show that it's something and not something that's ancillary and an annoyance, because that's kind of like how it is now. It's almost as if it's an afterthought. And it should not be an afterthought, it should be built in as something that's necessary when it comes to the healthcare workers, given what they've just went through.

SENATOR JORDAN: Absolutely, I agree, thank you.

Joint Hearing COVID Impact on Workforce, 8-13-20

ASSEMBLY MEMBER MCDONALD: We have o
last member, and it's Brian Manktelow, ranker, five minutes.

ASSEMBLY MEMBER MANKTELOW: Thank y
chairman. Wayne, I apologize, I had to step away for a few minutes, but I'm back on. I know in our area, I'm a veteran and I know there's a lot of veterans that are members of PEF. Is there anything that we need to be doing for our veterans through this whole COVID situation right now that we're in, this pandemic do you see that we could help our PEF members?

MR. SPENCE: I don't know if you know that the veterans' home out at Stony Brook took a big hit, it took a big hit. And I think again that the veterans' home that is run by the state again, the agency that's responsible, was asleep at the wheels. And they need to be able to sound the -- it was my members again, who sounded the alarm. And it was part of a conversation and again, when you hear these alarms and no one's listening, what do you do?

There was frustration that there was an

Joint Hearing COVID Impact on Workforce, 8-13-20

emphasis on nursing homes, but yet, congregate homes similar that was run by the state seemed to have gotten lost in the sauce. So how do we make sure that should this happen again, should there be a second wave, this doesn't happen again? I have not seen anything from the vets' homes management on the stateside to suggest that they are not won't do the same exact thing again.

ASSEMBLY MEMBER MANKTELOW: Well, I think that's one of the beauties of having the testimonies from everyone. All the members on both sides of the aisle, Senate and Assembly, you know, we've been listening to these. This is my fourth one here in the last week, and I've learned so much about what we're missing and what we didn't do. It's our job as legislators to make sure that we do that moving forward, especially if we do end up getting a second wave. So, Wayne, I will let you know. I will reach out to Stony Brook and talk with them, okay, and see what we need to do from the stateside to make sure that happens.

MR. SPENCE: Thank you, sir.

Joint Hearing COVID Impact on Workforce, 8-13-20

ASSEMBLY MEMBER MANKTELOW: Pat, is there anything you'd want to add to this before I step off, or are we all set?

MS. KANE: I think we're all set.

ASSEMBLY MEMBER MANKTELOW: All right. Thank you so much. Thank you both for being on today and giving us your time, much appreciated.

MS. KANE: Thank you.

MR. SPENCE: Thank you. Pat, it was good seeing you.

MS. KANE: Good seeing you too, Wayne.

ASSEMBLY MEMBER MCDONALD: Thank you our panelists, we appreciate your testimony. And now, we'll move on to panel number five out of 13.

SENATOR RAMOS: Panel number five is Ron Busby, president and CEO of the U.S. Black Chambers, Ken Pokalsky vice-president of the Business Council of New York State and Melinda Mack, executive director of the New York Association of Training and Employment Professionals. Welcome to our hearing.

MR. RON BUSBY, PRESIDENT & CEO, U.S.

Joint Hearing COVID Impact on Workforce, 8-13-20

BLACK CHAMBERS, INC.: Well, thank you.

SENATOR RAMOS: And you may begin your testimony.

MR. BUSBY: I don't know the roll call, but I guess I'll go first.

ASSEMBLY MEMBER MCDONALD: It goes R Ken and Melinda, just in that order.

SENATOR RAMOS: Yes, sorry, yes.

MR. BUSBY: No problem. I will go. Again, my name is Ron Busby and I am the president of the United States Black Chamber of Commerce, here in Washington D.C. and ally of our co-chair, Mr. Sanders. And I appreciate you having me here to speak this afternoon. We represent approximately 332,000 black-owned businesses and in this moment of time, we as an organization see this as a conversation about black concerns.

If you really look at the pandemic, it was the black community, especially in New York that suffered the most. If you look at the number of deaths from the black community, it doubled that of the number of deaths of the white

community. If you look at the number of unemployed that were laid off or just outsourced, it almost doubled the number of white people as well.

And so for us, the first thing that we have to do is say this is not a diversity and inclusion conversation. This conversation is about black communities, black businesses and black people. So you have to have a specific issue that is going to address specific concerns. And so for us, the first thing we want to do is identify that these firms are particularly black-owned. Right now, there is a lot of conversation about black lives matter and about businesses that are black-owned, about supporting the black community through spending money with black firms.

But, yet, in the State of New York there is really no way of certifying, validating if these firms and businesses are exactly black-owned. And so the first thing that we're asking from the State of New York is to ensure that when you're creating policy that the policy addresses

the businesses and the communities that need it the most. This cannot be a broad brush solution to a specific community and nationality in reference to the issues that we are facing in today's market.

You have seen that we lost 41 percent nationally of black-owned businesses. That represents 441,000 black firms that were closed between the months of February and April. There was a conversation prior to this, that if each black firm in the state of New York could hire one additional black person, there would be no unemployment for black people in the state of New York.

Well, that has changed because we've lost so many black firms in the state that even if the firms that exist were able to hire two employees, we would still not be able to address the unemployment conversation in the state of New York.

Right now, in reference to employees, 14 percent of all black employees are in the grocery store, convenience and drugstore, 26 percent of

Joint Hearing COVID Impact on Workforce, 8-13-20

all your public transportation folk are black, 18.2 percent of all your folk that work in your postal services, your warehouse and trucking industries are black, 17.5 percent of the folk that work in healthcare in the state of New York are black.

So from an employment conversation, we also need to look at how do we address black homeowners, because we know that if I'm unemployed the likelihood of me being able to pay my mortgage is going to be challenging. How do we address renters in the State of New York? If I'm unemployed, I can't pay my rent. So those are some of the things that we are looking at, but it starts with being able to validate from our perspective which firms need the help, can get the help and most importantly can identify themselves as who they really are, and that comes through a validation form. I will stop and open it up to questions that you may have.

ASSEMBLY MEMBER MCDONALD: Thanks, F

What we're going to do is we're going to receive the other two members' testimony and then we'll

Joint Hearing COVID Impact on Workforce, 8-13-20

open it up to a potpourri of questions I am sure. Ken?

MR. BUSBY: Thank you. Thank you.

MR. KEN POKALSKY, VICE PRESIDENT, THE BUSINESS COUNCIL OF NEW YORK STATE, INC.: good afternoon everyone. On behalf of the State Business Council, we greatly appreciate the opportunity to talk with you today. I know there's limited time available for all the panelists, we are always available for any questions and conversations after today's hearing as well.

I mean we certainly, we represent about 2,400 private sector employers across New York State. We have about, and represent about a million employed New Yorkers. We certainly agree with the tone of today, that we're facing unprecedented challenges and impacts.

We also echo something that Commissioner Reardon said earlier today on the interdependence on employers and employees. We could not agree more. As a general comment, one of the things I would like to say is that I think we all need to

recognize even say if Congress passed the House version, which was a $3 trillion recovery bill, there's simply not enough money available to fully offset the adverse impacts of the COVID pandemic.

We really need economic activity and growth, return to work, job growth all done without losing the focus on health concerns. And I think it's important to recognize that even if New York State and I think we've done better than most states successfully implements public health and employee health mechanisms, full economic recovery in New York State is not a given.

And we know the experience after the last recession. New York State's employment growth had fallen in 2019 below national growth trends and some parts of upstate New York had just barely or not yet recovered jobs lost in the last recession. And my point is that post pandemic recovery is going to be affected by many factors including the state's economic climate, cost structure and regulatory structure. These are factors that have to be kept in mind as well.

Joint Hearing COVID Impact on Workforce, 8-13-20

Importantly, we've seen some encouraging job numbers in New York State, 100,000 jobs re-added in May, by June, 300,000 from our April low. So that does reflect the gradual reopening of New York States businesses.

To touch on a couple of the main points of today's hearing on workplace safety, I think from day one of this pandemic, our members had agreed that our economic policies are going to be driven by public health data broadly defined. And the Business Council, myself included, my staff has worked extensively with the Cuomo Administration and our members on the New York Forward reopening protocols, which focused on protections for employees and customers alike, and the various executive orders that went along with that as well.

What we've seen and what limited data we've seen from the state so far, is that COVID cases among essential workers outside the healthcare sector have tended to be lower than the general public caseload. What we've heard from our members the basic protections required

Joint Hearing COVID Impact on Workforce, 8-13-20

under OSHA and New York Forward protocols have seemed to proven to be generally effective.

The New York Forward protocols provide detailed operational requirements sector specific. They seem to be working. If there are other specific public health or workplace standards that members of the legislature would like to discuss, we're certainly open to those discussions.

On unemployment insurance, a lot is said about the challenges that the department went through, so I will avoid that for now. But the number that was talked about today is really eye-opening. We've, of the $40 billion in UI payments that have been out the door in New York State so far, about 10 billion of that is from New York State UI fund that's 100 percent employer tax funded. And from what we can tell, New York State has taken about a five to $6 billion advance from the feds to pay benefits. That entirety of that amount will be repaid by New York employers over the next several years through increased state and federal unemployment insurance debts. It's a

Joint Hearing COVID Impact on Workforce, 8-13-20

big number that needs to be looked at.

One of the things, talking about the usefulness, the importance, the critical nature of UI benefits to unemployed workers that might be considered, we would point out that under federal, state and New York City unemployment or personal income tax laws, all unemployment insurance benefits including the temporary benefits under the CARES Act remain subject to New York State, New York City unemployment insurance tax that might be looked at.

And then on the Payroll Protection Program, I think we agree it got off to a rough start. The initial statute was misaligned with small business [unintelligible] [04:31:18]. We think those were eventually addressed and looking at the final report on the program, we do think it has done generally what the program was intended to do. About 80 percent of New York State's small business firms have received loans covering about 75 percent of small business payroll.

Just one more point for the legislature

Joint Hearing COVID Impact on Workforce, 8-13-20

to consider, something that's being looked at at the federal level, the IRS considers PPP loans to small businesses that are forgiven to be taxable. We believe that at least for non-incorporated businesses, most small business in New York State that's probably likely true under existing New York State tax law, something that we're exploring with the tax department and with our tax attorneys. But it would be I think an unwelcome surprise at the end of this process for small businesses that are just barely hanging on to the benefit of the PPP loans to receive a significant unexpected tax bill next year.

So that's touching on the three major areas of the hearing today, like others, I will be happy to take your questions and comments. I appreciate the opportunity.

ASSEMBLY MEMBER MCDONALD: Thanks, M

Melinda, welcome.

MS. MELINDA MACK, EXECUTIVE DIRECTOR, NEW YORK ASSOCIATION OF TRAINING AND EMPLOYMENT PROFESSIONALS: Hi, good afternoon. I also want to sort of extend my thanks for letting me come

Joint Hearing COVID Impact on Workforce, 8-13-20

today and to speak to you all, but also to the unions who represent some incredible workers across the state. I mean it's hard not to be deeply touched by some of the stories that they've been describing.

So I represent NYATEP, the state's workforce development association. My members serve about 1.2 million New Yorkers each year, getting them educated, trained and employed into good jobs. I wanted to sort of reiterate a couple of the key data points that came out from the commissioner's comments earlier.

Again, I think we're all grappling with these massive unemployment numbers. As of August first, 3.4 million New Yorkers were unemployed and another 1.3 million are receiving unemployment assistance through pandemic UI. I think one of the things to note is around 800,000 individuals were receiving UI at the peak, during the last great recession. And so when we think about the lift to get people back to work, it's pretty massive and incredible.

I think as you also know, because I come

to you every year in February or March, talking about this, the labor market has had structural issues, structural problems in it for decades, right. One of the largest issues that we've talked about for a longtime is that the top ten largest occupations, which make up about two million jobs are dominated by low wage work and the majority of the sectors have been impacted by COVID-19. So we're talking about folks in hospitality, tourism, retail sectors that tend to pay below $32,000 a year.

We also know that about 45 percent of New Yorkers, based on the ALICE Report that's put out by the United Way, are working poor. These are folks who are working, doing the right things and are still unable to afford their basic monthly costs like food, childcare, transportation, et cetera.

And lastly, what we know, and again, we've talked about this for decades is when there's an economic downturn, the economy doesn't improve for everybody the same way. In particular, people who have a high school diploma

or less did not recover in the last recession and are very unlikely to see recovery during this recession as well. In New York, that's 42 percent of people, right. That's a lot of people who lack above a high school education.

So before COVID-19, what we heard, the rallying cry, what got people excited, was the concept of the future of work, what the impact would be on jobs and the skills gap. But as was shared earlier by my fellow panelist, we know that the labor market as it has been designed, has not benefited everyone equally. But we also know that the vast majority of New Yorkers who have lost their job are people of color, people in low wage work and individuals who are really having trouble accessing better skills to get a better job.

So I think we have a shot here to do the right thing, right. This is a massive shift in the labor market and we have a chance to make investments where we need to, to really have a meaningful and equitable recovery. So as part of our Investment Skills New York Coalition, our

group that's been together as an alliance, that includes the business community, education, workforce, community college leaders, we're actually in the process of putting together a set of recommendations that will come to you in September.

But I want to caution you that you're going to get lured by the big, shiny solutions. Big ideas, the big ways to get people back to work. There is a workforce system in New York. It works well, it's effective, it gets people into employment but I should note that it's desperately underfunded, has 50 percent less money than it had 10 years ago and year-over-year, we continue to see cuts.

The CARES Act at the federal level provides about a third of what we would need and actually provides about the same amount for the workforce system as we would see under ARA, so the American Recovery Act.

So I say that because as we think about the recommendations, know that these are tried and tested solutions that we just need resources

for. But some also are policy changes that we can make that would have a huge impact.

A couple of the big ideas that I want to share that are sort of circling right now. It's the way that we utilize our economic development power, how we align our incentives for businesses to create quality employment. We also have metrics that are coming out around how we rethink about spending our federal Workforce Innovation and Opportunity Act dollars as well as TANF, our welfare resources, to really make sure that individuals have access to in-depth services for a longer period of time, but also are able to keep their benefits and actually grow their benefits so they can stay employed.

We also have some very specific recommendations that will be coming out around how we actually connect individuals around education and training in the pipeline from K-12 through college.

And then finally, this concept of the digital divide. I think what we're finding as we go across the State, people don't have access to

computers they don't have access to software. It's really challenging people's ability to work remotely, to learn remotely and also really increasing the equity gap that we're seeing in our state.

And then finally, as I shared before, the state's workforce system is often seen as an afterthought. This is the system that is meant to educate, train and get people jobs that cannot typically go through the traditional systems. If we don't make investments here, I'm not sure who is going to help people who need skills to get back to work. And really as sort of Ken and Ron have shared, businesses are going to be desperate for workers and we need to sort of do all we can to make sure folks have the supports they need to get employment.

ASSEMBLY MEMBER MCDONALD: Thank you think if you don't mind, the Assembly will start off.

SENATOR RAMOS: Your turn.

ASSEMBLY MEMBER MCDONALD: Thank you Linda, thank you for your comments. It's

interesting, one of the things that these pandemics is that you realize that organizations that maybe not have been funded as much as they should have in the past actually have proven to be even more valuable because of the personal approach, the hands-on approach.

I can tell you in the small business community, the small business development center, which you're aware of, has been a hero to many small businesses who were really lost, and that's not just here in the capital region but throughout the State. I have some questions about PPP and the impact. Ken, I think I'll start with you, obviously. I imagine the majority -- Ken, you may want to, there you go, you unmuted yourself. I imagine when you look at the breadth of the members of the Business Council, what percentage actually availed themselves of the program?

Mr. POKALSKY: I don't know because we haven't polled them on that. About 80 percent of our members have 100 or fewer employees. If you look at -- the SBA just put out I believe what

they considered a final report on the PPP program phase 1 and 2. And the vast majority of -- they measured their loans by size of loan, not size of employers. The vast majority of the loans issued, I think were under $150,000, aimed -- and so that's the universe of employers that are relatively small.

So the evidence we see of the numbers served, the smaller businesses did take advantage of the PPP. I think that those that didn't fell into two categories, particularly those who only looked at the program when it first came out and saw that just that the numbers just didn't work out, that they, the minimum -- or the minimum amount that had to be paid for wages rather than other business expenses just didn't match. The challenge of repaying the loan and initially was a two-year turnaround. If you failed to meet the headcount and payroll mandates, it just didn't work.

So I think there's a problem on almost every new initiative among the smaller businesses. A lot just didn't know. It didn't

Joint Hearing COVID Impact on Workforce, 8-13-20

have the wherewithal to access the programs.

ASSEMBLY MEMBER MCDONALD: Do you th

just talking to members, that a majority use them for what many of us intended them to do, which was the keep our employees working? Were they able to maintain their salaries and keep the majority of the workers? I know, in the end it's part of the reporting system, but that's going to probably take months, if not years, to get the results. I think we're curious to see was it successful in its intended goal.

MR. POKALSKY: And I don't think anyone knows for certain. I think we just know what the anecdotal evidence is. I think that the majority did use it to maintain payrolls, not necessarily employment, because some of the -- particularly in the hospitality world, people were taking these loans, in New York State under New York State's [unintelligible] [04:41:03]. I know in talking to banks who are now going to be required to service and oversee the loans, there are some infamous cases where individuals certainly used the monies for unintended purposes and those

Joint Hearing COVID Impact on Workforce, 8-13-20

monies are being recovered.

ASSEMBLY MEMBER MCDONALD: Let me -- me jump on because my time is getting tight. Ron, I want to ask you, because I know the U.S. Black Chamber was a strong voice. The first round, a lot of minority businesses were completely, because they do community banking, their banks weren't -- they went back and revisited the program, and I know I talk to my friend Tony Gatti quite regularly from the Upstate Chamber. I'm hoping that we've gotten a greater uptick in what black businesses are left were able to participate.

MR. BUSBY: So the National Bankers Association, which represents the 19 black-owned banks gave a report. Nationally, there were less than 10,000 black firms that participated in the payroll protection plan from the majority banks. So those firms that did get funds, they got it from CDFIs and local black banks. But I want to say that what we're not interested in is another program called payroll protection plan. Just from the marketing and the title of the program, it

did not do black firms well. We should have been talking about the EIDL loan program, but again it wasn't marketed well. When you talk to a small firm and say a loan program, they're not interested. When you talk to small firm talking about payroll protection, they can't participate. And so from the outskirts, we thought that it was marketed extremely poorly, and for that fact black firms did not participate, did not get a chance to get the funding, and as we go forward, I think you're going to face some of the same types of challenges for black firms in the future.

ASSEMBLY MEMBER MCDONALD: Thank you

And as we go forward, we're going to go forward with the Senate.

SENATOR RAMOS: Thank you, John. And thank you to the panelists. I'm actually going to allow our banking committee chair, Senator James Sanders, to ask his questions. He has five minutes.

MR. BUSBY: Mr. Sanders, you might want to come back and sit down, sir.

Joint Hearing COVID Impact on Workforce, 8-13-20

SENATOR SANDERS: I had to, but you have to unmute and that's, you know, you don't want to know our technical questions. What a great panel that we have put together. I would love to have had time to question each and every one. I may, I will try to, but I'll go straight to Mr. Busby. Mr. Busby, you spoke of policies that impact on blacks and other communities. But let's take it to New York State. Let's keep this where we can do something about it. It's not enough to talk about the world. We can think globally, but we need to act locally.

New York State has a budget of around $179 billion of which zero goes into black, Latinx, Asian or women-owned banks. What would 10 percent of that money do if it went through black banks or any of these other banks that I just spoke of?

MR. BUSBY: It would challenge them. Many of them would not be able to take the funding. Part of what we have asked, we have policies that we're asking for from federal governments. Ee're asking similar requests from

our corporate partners, and part of what we ask them, hey if you're $100 million or about in assets, we want you to take 15 percent of those dollars and place them in the blank banks. We thought that was a great idea, but the challenge is the black banks don't have the liquidity. When we were talking about banking black three, four years ago when we created the Black Bank Initiative, we had folk from New Jersey, Delaware driving to New York to make a deposit. Those banks were suffering. Banks don't make money when you make a deposit. Banks make money when you make a loan, because you have to pay interest back. What we have to do is be creative for black-owned banks so that there's an overarching initiative and an overarching organization that can fund them so that they don't have to have the liquidity to continue to remain and they can get the funding when they need it. You have someone between them and the state to be able to hold the funds.

Many corporations are saying, great, I don't mind taking my money out of J.P. Morgan, B

of A, Wells Fargo, and depositing it, but we have to make it available to the black bank where they can still take a bite at the option. We know that blank banks make 70 percent of their loans to black homeowners and black-owned businesses, so it's a great idea. We've just to have to figure out how to get them the liquidity, so that they're not sitting on those dollars and still being penalized for having more revenue that they can put out.

It's got to be a programmatic approach but I'm sure that Tim Sanders and the other black-owned bankers would love to have that conversation. I know we're discussing it at [unintelligible] [04:46:13].

SENATOR SANDERS: I believe I may have found the way. the intermediary that your speaking of, sir. It is called a public bank of which I'm working on. If you are not familiar, then I encourage you to become familiar. Mr. Busby I've got around two minutes left, what policy would you want changed in New York that would help black businesses?

Joint Hearing COVID Impact on Workforce, 8-13-20

MR. BUSBY: Great question. For us, we would love to see either someone placed in each mayor's office, either an employee or organization like a chamber of commerce, that was there long-term to ensure that black businesses had a look and an opportunity at the deal flow. If all you're doing is just opening up your contracts and saying, everyone come in and compete, you're not going to have the biggest impact for the communities and the businesses that need it the most.

So, say we have $100 million in contracts that are going to come out. I'm going to place either a chamber of commerce from the black community or an individual that we're hiring that is there to ensure that black businesses have an opportunity. Usually you'll say, we'd love to do business with black folk but we can't find them. No problem. Have someone there that their responsibility is to go find them. And if that means putting two firms, three firms, four firms together to be able to have the size and the scale that you need to be able to

award them that contract, then so be it. We have the flexibility of being able to create that type of partnership that can then fulfill the needs of the contracts there that are being released through the state.

SENATOR SANDERS: The same question to you, Ms. Mack, what, and if I have time to the other gentleman. What policy do you believe would be useful to help blacks and others, especially blacks perhaps, but and others, in this period?

MS. MACK: Of course, so I think for me the biggest is around addressing the benefits cliff, right. So if a low wage worker wants to be able to work, they often are having to really figure out some of the assets that they need to be able to be employed. So childcare, transportation, et cetera. And so if there are ways that we can standardized what that benefits cliff looks like statewide, but also make investments in things like employer resource networks or ways that individuals can access assets or not be penalized for working, I think that's sort of what we want to start to see

included. You can't participate in a full-time education and training program if you're on public assistance and work. You end up being penalized again for trying to do the right thing. So I think those are the types of things and flexibilities we're hoping we see during this period.

MR. BUSBY: Senator Sanders, there is one other idea. That is prompt pay. If you give a contract to a small business owner and he's got to go get a loan to be able to cover your float to make sure that he can make payroll, that puts him at a disadvantage because we know that minority and black-owned firms pay twice the interest rate for a loan, so now they've got to borrow money just to cover your overhead. Pay them on time. Under the Obama Administration, there was a prompt pay program that said they paid within 15 days. A state can implement that without much headache. If I start a job January 1st, I invoice you January 15th, I should be able to get paid January 31st to make sure that I am growing my business through the cash flow that I

have and I'm not depending upon lines of credit just to make sure that I can make payroll.

ASSEMBLY MEMBER MCDONALD: Ron, than

you and speaking of prompt, we're going to move on to our next member, but I love the idea, we love the idea. Harry Bronson.

ASSEMBLY MEMBER BRONSON: Hello, fo

Thank you for being here, and I kind of want to follow up on the discussion that was just being had. I'm a strong believer in antiracism and follow Dr. Ibram Kendi's guidance on that for policymakers. And that is every decision we make should either move us closer to equity or remove barriers to equity.

With that in mind, if we are going to help communities of color impacted by COVID and impacted by previous deals that were not fulfilled, like 40 acres and a mule that were never delivered, we're going to do that through entrepreneurial approaches, we're going to do that by making sure that folks get education and we're going to do that by making sure that folks get the equity that they need. So my question is

to Mr. Busby first and then to Melinda. Ron, to you, in connection with business ownership and being an employer, so you can hire folks, what, if you could come up with three things that we can do today to help black businesses, what would they be? And me Melinda, the same question to you but on the employee side, on the workforce development side, three things that we could do today to help make sure people of color are getting a living wage with benefits. Go ahead, Ron.

MR. BUSBY: Well, the first thing is you've got to specify that they are a black-owned business. You have got to be able to codify that yes, this is a black firm. It's not a minority firm. It's not a small firm. It's not a woman firm, this is a black firm. If you want to address the concerns of black people, make sure they're black people.

Secondly, as I discussed, the prompt payment I think would definitely improve the conditions for black small businesses. That way they wouldn't have to worry about paying the high

interest rates.

And then third, when you really are starting to look at contracts from the state and local governments, you've got to make sure that you are meeting the numbers. Set a goal. For us, we're saying 15 percent of all new contracts need to be awarded to the communities, local and minority, black communities, brown communities so that that they have an opportunity to not just be involved in the community, but to have sustainability. Those are the taxpayers, those are the folk that hire from within the communities. If you're really looking at unemployment, black firms hire black people. Hispanic firms hire Hispanic people. So you have to make sure that you're investigating in the firms that have the employees from your local communities.

ASSEMBLY MEMBER BRONSON: Thank you, Ron. And from the employee side, Melinda, what training program, what development programs can we have for people of color?

MS. MACK: Sure. I think one thing I

would sort of mention and to what Ron was just sharing is we also know small businesses often don't have the resources to upscale or hire employees. And so I think we're also looking at ways to increase wage subsidy and transitional jobs to support small businesses to be able to hire people from their local communities.

But my top three, I can probably give you a top 20, right, because so much needs to be done. The biggest really is around eliminating all the issues related to transfer and credit accumulation at SUNY and CUNY, right. When we think about our ability to get people to and through community college, we need to make sure that when they go to BOCES, the credits they get from BOCES transfer into credentials into community college. It's real education. It's important education. It's skill-based education. It needs to actually translate, and not end up costing people additional cash.

I think the second area is we have to address the digital divide. The fact that we cannot get devices, programming and broadband to

every corner of New York State, including communities that you all live in, there are people in your communities who do not have access to broadband, it's going to impact children's ability to get public education this fall. I have three kids at home in the city of Albany school district. We're struggling through it right now, right. It's going to impact workers' ability to work remotely, and if you cannot work remotely, you don't have a job in some instances. Aand it's going to impact people's ability to get education and training to get a good job.

The last thing is we've got to recognize a lot of people who are unemployed are not going back to work. There's not going to be a job for them to go to. And we need to be utilizing this time to address the skills gap so people are able to go back to work in better jobs. We keep talking about folks' wages. We have not equitably invested in the education and job training programs. Many of the labor union based programs do not have enough pipeline to be able to get people into those training programs, the BOCES

programs, the community-based organizations in your communities that do education and job training for really meaningful jobs like carpenters, plumbers, folks who fix your air conditioner. We need to be investing in those types of training pathways as well. So if we did those three things, it would be revolutionary for our state.

ASSEMBLY MEMBER MCDONALD: Thank you

ASSEMBLY MEMBER BRONSON: Great, tha

I know Co-Chair McDonald is going to cut me off but I just want to give a shout out in connection with the multi-craft apprenticeship preparation program here in Rochester. That is a direct pipeline of young folks of color getting into the construction trades, which we do a much, much better job of doing. Thank you very much. Thanks for indulging me, co-chair.

ASSEMBLY MEMBER MCDONALD: You got i

Harry. And let's bring on ranker Brian Manktelow and that will probably close out our panel.

ASSEMBLY MEMBER MANKTELOW: Hey, go

afternoon. Sorry about that. I was on the phone

Joint Hearing COVID Impact on Workforce, 8-13-20

and I apologize. Can you hear me now?

ASSEMBLY MEMBER MCDONALD: You're go

to go, Brian.

ASSEMBLY MEMBER MANKTELOW: Good. F

thank you for being on today. Thank you everyone for being on today. Just a quick question. I live that a rural area just east of Assemblyman Bronson's area between Rochester and Syracuse, very rural, a lot of the agriculture. Would black members, black families, I don't see a lot of black members being -- and black families being involved in agriculture or any of the smaller businesses. What can we do to help promote that? What can we do to get them engaged? How can we engage them to make that happen? I mean, we're here to help one another and we need to help those individuals as well. What can I do from the state side? What can I do from the local side to help make that happen?

MR. BUSBY: When we first started U.S. Black Chamber, our first advocacy was around the black farmers in Beauford, South Carolina.

ASSEMBLY MEMBER MANKTELOW: I think

Joint Hearing COVID Impact on Workforce, 8-13-20

[unintelligible] [04:56:46].

ASSEMBLY MEMBER MANKTELOW: And as as we were very involved, we realized that we lost a ton of our black farmers, not because they weren't good farmers, not because they weren't farming the right products. It was because they checked the wrong box. And that box eliminated them for the opportunity just to get the $60,000 that we had been fighting for for years. And so we had to go back to the USDA to get $25,000 to start making small business grants. You've got to take it away from a loan conversation to a grant conversation and make it very specific to new industries and new opportunities.

We're talking now about existing businesses. Understand we lost almost a half a million black firms, so we've got to start talking about what is the next generation of opportunities and firms. There is going to be a great deal of mergers and acquisitions, so we've got to start talking about what is the future and where should we be directing our black businesses to get involved. And so there's not a lot of

conversations going on about labor industries. Everybody is talking about high tech and the gig economy. We've got to go back to what got us the wealth that we had in the previous generations, and a lot of that deals with farmers, farmland, and agriculture.

You'll see a lot of small farms growing up in rural communities, but I have always stated that we need more black farmers to ensure that we have good food, good industries for us to work on, and ultimately that turns into land. And for landownership in our community, that is a priority that we have lost over the last several decades. And so I would love to partner with you on that to talk about the importance of farming, particularly for black farmers.

ASSEMBLY MEMBER MANKTELOW: All ri

well, that would be great, Ron, because I'd love to do that. I will look up your information online and I will shoot you e-mail from my district office and maybe we can chat about that because the opportunities are there. There's jobs in upstate New York. If I was a young person, I'd

be looking at plumbing, I'd be looking at electricians, masons. Nobody wants to do it anymore, and these are going to be the backbone of who we are. You can't have anything else without these individuals, and if we can help grow that and get these individuals involved in my area, right between Syracuse and Rochester, that would be awesome. So Ron, I will shoot you an e-mail and maybe we can chat about that, that would be great.

MR. BUSBY: Look forward to it. Thank you.

ASSEMBLY MEMBER MANKTELOW: Thank y everyone.

ASSEMBLY MEMBER MCDONALD: Okay. I t we still have a, we have a second round for Senator Sanders, it appears, right there, Senator Ramos? Oh, now he's going to go take a walk.

SENATOR SANDERS: I'm trying to unmute.

SENATOR RAMOS: Where do you go? Oh, he has to get up to unmute himself.

ASSEMBLY MEMBER MCDONALD: Oh, okay

SENATOR SANDERS: It's old-fashioned, my

friends. It's old school. It's just to want me to exercise. I was really thrilled by the speakers and to the questions coming at the panelists. The ranker's questions and points were really strong and interesting points. I, of course, want to alert the ranker that there is a history of theft and plunder of why there are so few black farmers, sir, and it would be useful to -- I'd be delighted to share any of the information on that with you. But I also would be delighted to work with the ranker and jump into the conversation with Ron over this because I agree, I had an urban farm in New York City, so, you know, I'm no stranger. But at the same time it is a lot, there's a lot that can be done there.

Here's how I would do it, Mr. Ranker, if I were you, the co-op, the co-op extension movement. Here, we have Cornell and other co-op extension movements. They have a mandate to aid new farmers, but by law we can actually give them an extra mandate to find black farmers and farmers of color and to aid those folks into getting into farming and things of that nature,

so there are things that we can do at a legislative level. I'm interested in being in that conversation, also.

If you are going to take it further, then, you know, you might draw me back to the party of Lincoln. You never know! You never know. We'll wait until after this election.

SENATOR RAMOS: That's a hard no. It didn't work so well for a few of our colleagues a few years ago, if you recall.

SENATOR SANDERS: Okay. We'll wait until after this election, and you never know. If it's the party of Lincoln, heck, I'd have been there already. All right, before I get into more trouble, to our chairs I really thank you for the opportunity for the second round.

MR. BUSBY: Mr. Ranker, I will say that there is a lot of interest in marijuana farming.

SENATOR SANDERS: Oh, my.

ASSEMBLY MEMBER MCDONALD: All right that's its own hearing. [Laughter] Let's move on to panel number six, and to our panelists on number five, thank you very much. Enjoy the rest

of your day.

MS. MACK: Thank you.

MR. BUSBY: Thank you for having us.

MS. MACK: good to see you all.

ASSEMBLY MEMBER MCDONALD: We're o

panel number six. I'll announce them, I think, because I lost track of who is doing what. United Food and Commercial Workers Union, Robert Newell, the president. He'll be first. Then the New York State Laborers' Union from Amanda Jensen. Then we will have Jared Trujillo from the Association of Legal Aid Attorneys. And from 1199 SEIU, United Healthcare Workers East, Carlos Villalba. So once we have everybody there, I see Amanda. There's Rob Newell.

MR. ROBERT W. NEWELL, JR., PRESIDENT, UNITED FOOD AND COMMERCIAL WORKERS UNION LOCAL 1500: Sorry about that.

ASSEMBLY MEMBER MCDONALD: Don't b

sorry. There's Carlos. Rob, you're going to be first.

MR. NEWELL: Okay.

ASSEMBLY MEMBER MCDONALD: Jared?

good to go. Rob, you pulled a Sanders on me, you went running away.

MR. NEWELL: Sorry about that. Sorry about that. Hi. Good morning.

ASSEMBLY MEMBER MCDONALD: You have minutes. Thank you.

Mr. NEWELL: Good morning and thank you. Good morning, Senator Ramos, and thank you to the rest of the chairs, and all the members of the New York legislature who in attendance. My name is Rob Newell and I currently have privilege of being the president of the UFCW Local 1500. Currently, we represent over 17,000 grocery and pharmacy workers throughout the state.

And unlike many other industries in New York, 95 percent of our members never had to worry about being furloughed or laid off because of the pandemic. Instead our members were immediately forced into the most difficult working conditions our industry has seen in generations. There was overcrowding, intense hoarding, substandard workplace safety precautions, forced overtime, supply chain

failures became the norm for our members.

Conditions like this were never discussed during the orientation. That much I can guarantee you. Unfortunately, the grocery industry was grossly unprepared for the impact the pandemic dropped on it, and originally many employers fought our members on the idea of wearing masks because they were concerned about the way it looked to the public. Additionally, the CDC guidance said it really wouldn't help.

Thankfully we all know better now. Our members were exposed to thousands of impatient and frantic customers per shift, and hundreds of them got sick in the first week or two. Is this how we're supposed to treat our essential workers? Most of them felt more deposable than essential.

Working together with elected officials and some of our union employers, we were able to find ways to make our workplaces safer. Elected officials helped us find PPE and sanitizer at a time when many of our employers didn't even know where to start looking for it. Our staff spent

weeks flooding the stores with what we got and did their best to keep our members calm. Working with our sister UFCW and RWDSU unions, we were able to negotiate hazard pay. We also managed to convince our employers to put up Plexiglas barriers, convince them to put signs and stickers on the floors and walls to remind customers to not only shop safely but continually socially distance. We encouraged them to buy masks and shields in bulk to further protect our members.

Every little bit helped but they were by no means safe. I wish I had the time to tell you about the employers that fought doing any of this but sit back now and take credit for it all. I also wish I could give you list of employers that never did any or most of it. Profits over people even during a pandemic when their volumes up more than 35 percent. Thankfully, the governor took an aggressive posture and started to issue mandates and protocols to further protect the citizens of New York and our essential workers.

Our members appreciated the mandatory mask and crowd control mandates the most. These

Joint Hearing COVID Impact on Workforce, 8-13-20

are the real keys to ensuring their safety on the job. Unfortunately, mandates can be enforced loosely or just ignored altogether.

I'm sure everyone has seen the recent videos that are popping up all over the country where maskless supermarket customers are challenging and even threatening workers with violence for simply asking them to comply with the mask mandate. Although there may be only a few video examples out there, I can assure you this happens multiple times a day, every day right here in New York.

Many supermarket employers have once again chosen profits over people by choosing to grant their customers access and serve them quickly and quietly rather than refuse them entry at their mostly unmonitored front doors. Anyone can and does walk through the door of a supermarket. What happens next can end in tragedy if this continues to be left unaddressed.

There is no question that it's easier and safer for a manager or a security guard to refuse entry to a customer without a mask than to

try to eject them once they're inside the store. Unfortunately, our members are now stuck in a scenario where there are great mandates without great enforcement. Restricting the number of customers in a store at one time and only serving customers with face coverings is the only way to guarantee our essential members and their families are save. After all they've done, aren't they at least entitled to that much?

Retail companies that didn't financially benefit anywhere near as much as the supermarket and with much lower customer counts, and quite frankly, a lot more to lose have done and continue to do more at their front door than our employers. For our members' sake, this issue needs to change and fast. Any customer that doesn't want to or medically cannot comply with the state mandate to wear a mask has other safe options. They can order their food online and pick it up or have it delivered to their home. Our members don't have that choice. They can't work virtually. They have no other option and they deserve a safe workplace.

Joint Hearing COVID Impact on Workforce, 8-13-20

Please help us protect the very same workers that kept their communities fed. Please help them get their hazard pay reinstated. Please help us by enforcing the already excellent mandates issued by our elected officials. This is by no means an allegation that every supermarket operator is the same. As a matter of fact, some have protected their employees quite well. Unfortunately, that number is significantly dwarfed by the number that have not. We cannot stop trying until all retail workers can both go to work and go home safely. Thank you.

ASSEMBLY MEMBER MCDONALD: Thanks, Amanda. We'll do questions after all the panelists have spoken.

MS. AMANDA JENSEN, POLICY AND LEGISLATIVE COORDINATOR, NEW YORK STATE LABORERS' UNION: Hi, good afternoon. Thank you, committee chairs, members and staff for your time and the invitation to speak on this important topic. My name is Amanda Jensen and I'm the legislative and policy coordinator for New York State LECET, the Laborers' Employers Cooperation and Education

Joint Hearing COVID Impact on Workforce, 8-13-20

Trust. I'm testifying today on behalf of our over 40,000 unionized laborers, 24 local units unions and 1,500 affiliated contractors. New York State LECET aggressively advocates for wage and safety standards for our members, raising the floor for both union and non-union construction workers.

The COVID-19 global pandemic presented unique challenges to our membership, impacting their health and safety, as well as our financial security. Our members were called to serve as essential workers when the majority of New Yorkers worked safely from home. Thousands of laborers across the state put their lives on the line to continue the critical work of building New York. Although we may never know did the total number of members sickened by COVID-19, or the total number of those who contracted the virus on the job, their contribution to the state is to be lauded and never forgotten.

The New York State Laborers worked in coordination with the building trades and affiliated employers in their development of protocols to ensure the safest possible

environment for our members. These protocols include measures to reduce worker density on job sites, the placement of signage promoting social distancing guidelines, face covering requirements, sanitizing stations located on all job sites, and daily health screenings, including temperature checks. These protocols are effective in protecting the health and safety of our membership and stopping the spread of COVID-19.

In addition to the heightened health and safety protocols, New York State Laborers launched a comprehensive education campaign to inform members on how to access unemployment, paid family leave and other state benefits. Detailed instructions were listed in the COVID-19 section of our website, and local unions were diligent in providing their members with the needed answers. While COVID-19 brought the state to a sudden and startling halt, our members continue to work at great risk to themselves and their loved ones.

Although a large number of construction projects across the state shut down, projects

deemed essential were permitted to continue without interruption. Our members helped New York stay in motion and their sacrifice should not be forgotten.

In the absence of a federal bailout, critical infrastructure projects including MTA projects and projects funded through localities should not be threatened. Our members are the economic drivers of the state and only stand to benefit from the creation of good jobs through continued investment in infrastructure. Economic resurgence cannot be achieved through austerity budgets.

Members of the Laborers showed up for New York just as they do in every crisis facing our state. Whether by putting their life on the line to build critical infrastructure projects, including working 12-hour shifts to expand hospital and morgue capacity, volunteering in their communities through food donations and other means, or by adhering to the guidelines of New York Pause if their job sites were deemed nonessential. The Laborers put New York first.

Joint Hearing COVID Impact on Workforce, 8-13-20

Our state can repay their sacrifice by continuing to demand the safest health and safety guidelines for job sites and to remain committed to the creation of great jobs. On behalf of the labors, I thank you again for your attention to this critical issue.

ASSEMBLY MEMBER MCDONALD: Thanks, Amamda. Jared?

MR. JARED TRUJILLO, PRESIDENT, ASSOCIATION FOR LEGAL AID ATTORNEYS, UAW 2325: Good afternoon everyone. Thank you so much for inviting us to speak today. My name is Jared Trujillo. I am the president of UAW Local 2325, the Association of Legal Aid Attorneys. We're a union of about 2,000 social workers, lawyers, paralegals and other legal workers in New York City, Nassau County and Orange County.

Our clients really -- our members, sorry -- really represent low-income New Yorkers on the worst days of their lives. We see people when they're in danger of being evicted. We meet people when they're stuck in a cage and they're afraid of having their liberty taken from them.

Joint Hearing COVID Impact on Workforce, 8-13-20

We meet children when they are at risk of being put into the foster care system. And despite these really difficult situations, our members are incredibly dedicated to providing the highest quality legal representation to every single person that we represent.

During COVID, our resolve was tested, and we truly stuck to the test. Our work only amplified. Since mid-March, we did about 60,000 cases in criminal court. We helped disappeared New Yorkers that were between different police precincts, find their families and find their freedom. We helped children really be able to navigate the tangled labyrinth of the child welfare system. And we did everything that our communities needed from us.

However, during that time, the courts really showed that our clients' lives did not matter, really showed that black and brown low-income New Yorkers lives did not matter in several ways. The biggest way was their glacial move to move to virtual appearances. Because the courts were so slow to move to virtual

appearances, we had over three dozen members contract COVID. Three judges died. Court officers died and so many of our clients contracted COVID. And that not only impacted our clients, but that impacted every single New Yorker that they came into contact with within their communities.

Recently, after the court did move to virtual appearances, they told us that they would work with us, and they'd work the with legal service providers that our members worked for to make sure that returns to court were safe. However, after certain comments were made to the media about the courts being closed, which they never were, leading to more gun violence, they abandoned that plan, and they immediately moved back to in-person appearances.

That is a tremendous issue for our membership. That's a tremendous issue for our clients. And that is a tremendous issue for every single person that our clients end up interacting with in the community. All we wanted from courts was to be able to go in and inspect the buildings, go to make sure that they had proper

filtration systems, make sure that they had the proper grade of MERV systems, make sure that they had Plexiglas for more than just the judges, which is what they do, but also for our clients and also for our members. We wanted to make sure that the actual environment that we were expected to work in, where our members have died and gotten COVID, we just wanted to make sure that was safe, and that's not what we were given.

In addition to the issue with courts, because the bar exam was canceled, so many of our members are really in this limbo phase where they're law graduates but they're not full attorneys, so they don't have the full privileges that full attorneys have. And more importantly because there's a certain provision, sorry, I'm noticing my time is ending, because there's a certain provision for public interest attorneys that lets them practice for a certain amount of time so they can take the bar exam, because that wasn't extended, a lot of our members are really in danger of potentially even losing their jobs.

So, we do have a couple of asks of you

today. We realize that the problem, one of our issues is that we're in a kind of precarious position because it's really difficult for us to pressure OCA in a lot of ways, to actually make sure that the facilities that we're supposed to practice in are safe. So the biggest thing that we can really ask of you is to support us publically. Our union is very good at putting pressure when our clients and our members face unjust, unjust conditions, when ICE was detaining our clients, we walked out of courts to put pressure on ICE. As we do actions, we hope that the legislature continues support us, not only by signing all those letters for us, but also to make sure that our funding remains intact and that we can't be defunded a lot of antiunion voices.

We ask that essential workers are really recognized as essential workers. That includes Senate organizers, that includes lawyers, that includes a lot of other folks. And finally, we ask that the legislature pass the two incredibly important bills for law graduates that haven't

been admitted to the bar yet, one of which was introduced by Assemblywoman Simon last season. Thank you.

ASSEMBLY MEMBER MCDONALD: Thank you Jared. We appreciate your comments and your testimony. And last but not least, Carlos from SEIU. How are you?.

MR. CARLOS VILLALBA, CASHIER/MEMBER, 1199 SEIU UNITED HEALTHCARE WORKERS EAST: you for the invitation. I'm a 1199 SEIU member. I'm part of the pharmacy division, and I work for Rite Aid Pharmacy which is also a retail one. We were lucky in a way, because we have a CEO who has been in the company less than a year. He seems to be very friendly for the employees. She understands and respects the employees and because she have been giving us, uh, if you were paid, they will pay get sick. And she have been able to give us the protections that we need. So on that part there's no complaint with my employers.

But the situation that we have right now is that for example at the beginning, I know that

everybody were focusing in on hospital workers, on nursing home workers, and it's obvious because they confront the COVID-19 epidemic right, it's right in front of their face.

But we got in the beginning in retail, we were very naive, because we thought that, okay, people who are sick are not going to be shopping our stores, they're going to be in the hospital or at home. But it turns out that we were wrong. People can have, be asymptomatic and that's what happened. I work in Midtown Manhattan. That store has like close to 40 employees. Out of those 40 employees, 10 of us got sick, one of us passed away because of the complication of corona-19. He was 70 years old. So, and the thing is the PPE was very hard for our company to get. We didn't even have it for sale at the beginning. Now we are in a situation that we have masks for everybody, we have Plexiglas, and we even have masks for customers who doesn't have it.

But this is the thing, is that our policy is that we allow -- we tell customers that

to walk in the store without wearing a mask, we remind them, listen, in order for you to come here to the store, you need to wear a mask, but if don't have one, there's no problem, we can have one for you. But if they refuse, there's no way for to us enforce it, right. And [unintelligible] [05:20:10] and the company tells us not to enforce it, to prevent any conflict with the customer. Some people have even got killed because of that.

What I require is what I, you know, none of that, but sometimes I work at the register, and one of the things, sometimes it's hard to -- when the customer comes to my register, sometimes I didn't realize that they don't have a mask right when they're in front of me, and there's no way to keep a six foot distance between me and the customer. And there's always interaction. There's no way around it. Like, is this on sale? Is it buy one, get one free? Why doesn't this coupon work? And it's scary, because we learn that it has nothing -- you can get infected not only because of the droppings, but also the

vapor, the spray, aerosol spray.

And one of my things that I do in my store, since we are retail, what I do is we have a big fan that I put on the floor, turn it on and that way it gives me a little bit of security because like I'm blowing their breath away from my face if they're not wearing a mask. So what I suggest is that the governor, listen, New York State, statewide, is to give fines to customers who walk into retail. That way we don't have to enforce it, because they know that if they don't walk in without a mask, simply on the background we call the cops, they come, and right away they give them a fine, or late. That's the best way.

Right now there's no jobs available anywhere, and the fact that you're not going to be able to be fined $100 or more, if you don't believe that this is real, you're going to wear a mask. That would be a great, great thing to do, okay.

And now when it comes to unemployment, pandemic unemployment, the other thing is that we need the pandemic unemployment, the funding,

because the flu season is coming, right. So, if I sick, right, the test is going to take more than two weeks, and then my employer will not let me come to work. They give us two weeks pandemic unemployment if we test positive, but if we have the flu we're not going to get that. We as a retail, we are minimum wage workers, and we are not going to be able to afford being out if there's no pandemic unemployment.

And do also understand why a lot of businesses, it's hard for them to find workers is because if I work a minimum wage and I get paid more on unemployment, of course I'm not going to come to work because of my family's safety and my own safety. It's not worth it. So there should be new rules or regulation to help that out because what happens in my opinion, see, when people apply for unemployment they get to get regular unemployment and get pandemic unemployment. But the moment that you make more than $440 or work more than four days, you will not get regular unemployment, you not get pandemic unemployment. But if they change the rules to make it if you

work four days or more and also like I said, so you get $700 more per week, you still will get -- be allowed to get the pandemic unemployment, and that pandemic unemployment automatically will become partial pay for those people who actually comes out to work. So if I know that I can work 40 hours and still get that pandemic unemployment, of course, I'm going to go out and look for a job, because now I'm not only going to be getting paid more as minimum wage but also have the $600 which healthcare workers need and deserve too, because it's risky for nursing home hospital workers to go to work and get paid the same. So that's my thoughts.

ASSEMBLY MEMBER MCDONALD: Thank you Carlos, I appreciate your comments. Is that it?

SENATOR RAMOS: Yes, thank you, assemblyman. I have a few questions and it's really a pleasure to see you all. Obviously, when it comes to grocery store workers, there's been a very huge discrepancy with employers when it comes to hazard pay. I guess what I want to ask, Rob, is do we know that the rate of infection,

even roughly for grocery store workers is? At what point did hazard pay stop for your members? And what can we do to help?

MR. NEWELL: Our rate of infection was really, really high in the beginning, senator. Thankfully, and I do mean it thankfully, whether it be by the grace of God or by just because we were pretty violently vigilant to ensure that our employers followed the mandates and, quite frankly, we gave out more than 50,000 masks in the first two weeks because our employees, our members, their employees had nothing. We had employers coming to our office to collect sanitizer and collect masks and distribute it in their stores so we could aid in the quick distribution of the PPE.

But we did lose nine members to COVID in the supermarkets, in just our supermarkets. Obviously there's more than one clerk local definitely in the UCFW and RFW in New York State and all of us suffered losses. The most important thing for us right now is just maintaining this low level of infection right now, because it's

Joint Hearing COVID Impact on Workforce, 8-13-20

one of the last things that they have to worry about. And what we're more trying -- we're just trying to make sure that customers have to abide by the mandates as they were presented. And I forget one of the points that you asked me about.

SENATOR RAMOS: Well, I was just asking about the hazard pay situation with your employers and what we can do to help.

MR. NEWELL: The biggest thing with the hazard play, it was all over the lot, right. So we had some employers that didn't want to do anything, they don't feel they had to. A lot of the smaller employers just took it as an opportunity to put a lot of cash in their pocket. In our industry, the opportunity to be cash rich and inventory poor doesn't exist. This was an albatross. It was a pink unicorn with dotted wings, if you will, because it just doesn't ever exist. And the holes in the supply chain created opportunities. So being [unintelligible] [05:26:09] on hazard pay, the majority of our large employers complied and they stopped in the early part of, the earliest part of August.

However, Stop & Shop got off the boat on July 5th and Stop & Shop is by far our biggest employer. And the expression the tail does not wag the dog is not an understatement here. When the big dog on the block gets out of the way, nobody else was lining up to continue to pay, although we did have a number employers that did.

There's been a number of conversations about some type of legislation for essential workers to get some type of pandemic pay or hazard pay or appreciation pay and, quite frankly, none of it seemed to get out of its original conversation. And I respect that businesses need to operate and they need to keep some semblance of payroll control, but no retail worker signed up for this ever. These are not emergency services workers, they're not doctors or --

SENATOR RAMOS: Sorry, Rob. I have less than two minutes left and I want to squeeze in a few questions about construction for Amanda. I wanted to ask, you know, those construction sites that were deemed essential, how essential were

they? I mean by and large, were they construction sites for luxury developments? Should construction sites have been shut down earlier? As it is, we know many contractors don't necessarily, especially non-union contractors, don't provide their workers with safety equipment. Did we see that trend also when it came to PPE? I know you said your union was really the one who stepped up to provide a lot of workers with what they needed.

MS. JENSEN: So, yeah, I think initially, there was just a lot of confusion on what should be done, and then initially we were, construction was considered essential just, you know, as just a blanket essential worker and then later it was a project by project basis. I don't want to get into what project -- it was kind of on a project by project basis, what was considered essential. There were some residential projects that probably shouldn't have been included in that, looking back. But on the whole, it was large scale infrastructure projects, road projects, airport projects, like JFK that were

given the green light to go ahead.

In terms of PPE, it was a scramble initially and there was a lot of misinformation about who should be wearing masks and who shouldn't. We made sure to have hand sanitizing stations at every job site. That was something that the union did, our health and safety fund made sure that that happened. We made sure to get out information to our members to use their own masks if it was permissible and they didn't need N95 masks. But it was a scramble to get them the equipment that they needed. We do feel that they were provided that in the end, but initially it was kind of a confusing time. Was there another question that I missed? I'm sorry.

SENATOR RAMOS: Well, it's okay. We're out of time, and I can come back for a second round after so I'll do that and yield to the Assembly.

ASSEMBLY MEMBER MCDONALD: And we're going to yield back to the Senate.

SENATOR RAMOS: Okay. Well, in that case, Senator Sanders, got to get up and unmute

yourself.

SENATOR SANDERS: All right. We're getting there. All the panelists have done a great job, and I am getting a lot of exercise, but all the panelists have done a great job, and I just want to speak on the issue of hazardous duty pay. On a personal level, I think it is incredibly shameful that the idea had been dropped. Our chair, one of our chairs, took this one up, Chair Ramos, of course, took this one up, and I just wanted to echo it and say and well, I'll ask a question.

In light of some of these corporations, food corporations that have had a record, making record profits last year and now this year, when should they have -- this one will go to you, Rob -- when should they have ended the hazard duty pay?

MR. NEWELL: We didn't really look at it as a profits reward. From our perspective, there's an absolute danger on the job that they didn't have before. We looked for anything from the creation or the development of a vaccine on

the job being a sign that there was no need for hazard pay or, quite frankly, once masks came off. The fact that every one of our workers for every minute of every day has to put on a mask, can't go on the sales floor, can't walk in the building, that's a very different set of job restrictions and it's a very different workplace for them. So that was the opinions of the unions, at least in the RWDSU and especially the UCFW that the when the masks went away, the pay could go as well.

SENATOR SANDERS: I will be kind to the others and thank you very much, chairs. That idea of loss of hazard pay is ridiculous, shameful. Thank you.

ASSEMBLY MEMBER MCDONALD: Thank you have Jo Anne Simon from the Assembly.

ASSEMBLY MEMBER SIMON: Okay. Thank you very much. I want to thank all of the witnesses for your excellent testimony and for everything that you have done and all that you and your members have been through. I did want to just follow up with Mr. Trujillo. I'm sorry if I am

saying your name wrong.

MR. TRUJILLO: Trujillo.

ASSEMBLY MEMBER SIMON: Trujillo. Okay. The issue you brought up with regard to your members who are practicing under this order that allows them to practice for a public interest firm for a period of time, even if they're not licensed. Can you explain, just for the record, specifically how this affects those members and why that's a problem for legal aid as an employer and for the clients, if they are sort of in this part of suspended animation.

MR. TRUJILLO: Sure. And thank you for bringing it up. So currently, under the judiciary law there is a provision that says if you work for either a legal services organization or if you work for the government, so DAs and child welfare attorneys and other folks, you get to practice under the supervision of an attorney even before you pass the bar. And that stays in place until you fail the bar twice.

We could talk certainly for hours about the racist origins of the bar and how the bar is

more difficult for a lot of particularly like black and brown attorneys to pass, but the reality is, is right now we have about 14 members that fall into this category just from the last time they took the bar, and so these are people that have been practicing law since last October, and because they had that second bar failure, now the judiciary law excludes them from being able to practice.

Because of the pandemic, the bar exam that normally would have been held in July was postponed until at least October and it's not even clear whether those people will be able even to take the bar in October. So right now that means that all of their clients who are already really dealing with the multiple traumas from COVID-19, now also have to have a whole new lawyer, and we're not fungible. We build relationships with clients, and losing out on the person that's so close to your case is a real loss for our clients, but then also our members.

It means that our employers are put into the difficult position of do we keep this person

on even though we don't necessarily get reimbursed by the city or the state or however their line is funded or do we let them go during a pandemic? And that's, of course, something I don't think that anyone wants. These are people that have been practicing under supervision satisfactorily for several months, and there's no reason that they shouldn't still be able to practice just because the bar exam didn't go their way. And in this instance because of COVID, we don't even know when they'll be able to retake the bar.

ASSEMBLY MEMBER SIMON: My understandi is that people who fail twice weren't even allowed to take this bar exam in New York, and some of those people tried to take it in a different jurisdiction, just to have a bar exam under their belt, but now all of the jurisdictions are in flux. Is that correct about your members as well?

MR. TRUJILLO: Exactly, it is. And even for people, it's a really big issue for a lot of our members, especially those with health

conditions. But I'll say really for everyone it's a problem. Practicing, particularly in a public interest firm when you're first starting, it's a lot of work. And, it's, you know, you're representing real people right off the bat. It's not like working in a big firm. And you have just a tremendous amount of pressure on you.

Usually people can take the bar, and I'm talking about that haven't taken the bar yet, usually people can take the bar in July before they're practicing, so it's a summer, and they have a little bit, I don't want to say it's free time, because you're studying all the time, but they have more time to focus on that.

The issue with COVID is that now people are expected to take the bar while carrying a caseload, and it's really just incredibly difficult for people and we really hope that the legislature passes those two incredibly important bills that relate to the bar exam to really recognize that for people.

ASSEMBLY MEMBER MCDONALD: So opens a down on this panel. We're going to be moving on,

Joint Hearing COVID Impact on Workforce, 8-13-20

but we want to thank all of you for your testimony.

SENATOR RAMOS: No, no, no. I'm so sorry, Assemblyman McDonald.

ASSEMBLY MEMBER MCDONALD: No? Oh, sorry.

SENATOR RAMOS: We have one more senator, and he is Mr. James Skoufis.

ASSEMBLY MEMBER MCDONALD: How cou forget Mr. Skoufis?

SENATOR RAMOS: Who has a few questions, five minutes.

SENATOR SKOUFIS: Now I feel bad keeping everybody. Thanks, and I should be brief. This is for you, Amanda, if you don't mind. I raised this issue with the commissioner earlier today about out-of-state construction workers coming to New York and whether they need to adhere to the quarantine rules that are in effect if they are on this list of states that the governor's put together. Have you worked on this issue at all since I think that list came out or the governor started with this directive about a month ago?

For those construction sites that are not employing local labor, that have out-of-state construction workers, have you engaged on trying to get enforcement at those sites?

MS. JENSEN: So I can't speak to if we've engaged. I've heard anecdotal evidence from our business managers that this is an issue that exists, that we're concerned about. Obviously, our membership, the majority of them reside in New York State but they've seen non-union job sites where there are out-of-state workers coming in. They're not quarantining. It is an issue that is pervasive, so we're taking a closer look at it for sure.

SENATOR SKOUFIS: Okay. Well, keep in touch if you'd like to partner on it. Thanks.

ASSEMBLY MEMBER MCDONALD: Okay.

SENATOR RAMOS: Now we're done.

ASSEMBLY MEMBER MCDONALD: Now we'r done.

SENATOR RAMOS: Thank you so much to all the panelists, and we are going to be moving on to the next cohort, which is Patricia Smith from

Joint Hearing COVID Impact on Workforce, 8-13-20

the National Employment Law Project, James Parrott, director for Economic and Fiscal Policies at the Center for New York City Affairs, Nicole Salk, senior staff attorney at Legal Services NYC, and Richard Blum, staff attorney at the Legal Aid Society. So that is actually the order of testimony, so Patricia, if you can kick us off, and Ricky will close us out.

MS. M. PATRICIA SMITH, OF COUNSEL, NATIONAL EMPLOYMENT LAW PROJECT: Okay. So tha you for having me testify today. I'm currently of counsel to the National Employment Law Project. In my past, I have been chief of the Labor Bureau in New York State, in the attorney general's office. I was commissioner of labor during the 2008-2009 recession and was solicitor of the U.S. Labor Department in the Obama Administration.

And I want to address today two serious problems facing jobless New Yorkers as they attempt to get unemployment insurance benefits during the COVID crisis. The first is New York's outmoded rule that, unlike the rules at almost every other state in the country, disqualifies

from continuing to receive unemployment benefits, many jobless workers who are able to find part-time limited work. Involuntary part-time work is soaring. The number of workers working part-time for economic reasons in the U.S. in July was three times the number it was last year. Tens and thousands of New Yorkers are returning to work but only with limited hours and many fewer hours than they worked before.

Yet, New York is one of the only states in the country that disqualifies workers whose hours have been slashed, if they still work a few hours over four or more days. Under New York's rule for each day in a week that a worker works, even one minute, they lose 25 percent of their weekly unemployment system, and if they work briefly four days a week, they lose all of their unemployment benefits. And while increasing unemployment benefits, I want to say, is a great stimulus and it's also a help for the New York budget, I'd like to point out, because increased benefits, unemployment benefits, are actually taxable in New York.

New York's partial unemployment method is also a disincentive to return to work. It would be much better to encourage workers to seek out part-time work without jeopardizing all or most of their unemployment benefits. Fixing this problem will likely require the state to borrow more money for the trust fund via federal loan, but it's important to note that it will not impinge upon the state budget. Loans are paid back by employer payroll taxes. Any loans, as the commissioner mentioned earlier this year, any loans are interest-free this year. That provision, as she also mentioned, is likely to continue. Further, repayment of the loans does not begin until the current recession periods end.

When I was commissioner of labor in 2008 and 2009, New York borrowed $13.3 billion for the trust fund. All of that money went into the ailing New York economy and all of that money was paid back in better economic times. Moreover, while allowing partial UI will likely result in some additional cost to the trust fund, I believe

those costs will be marginal because the increased costs will be offset by some degree from savings by removing the disincentive for workers to increase their part-time work.

The other thing about New York's partial UI rule is that it's costing New York and the New York economy millions of dollars in 100 percent federally funded UI benefits. These are benefits that would benefit the New York economy, but New Yorkers will not receive unless there is a change to the partial UI rule. That's because all of the 100 percent federally funded benefits incorporat by reference New York's rules, including New York's partial UI rules.

The second issue that I would like to address concerns the troubling and legally inaccurate guidance the Department of Labor has issued on return to work and when employers may continue to refuse to return to dangerous jobs and continue to receive unemployment. The Department of Labor has basically said that you must return to work, even if the work is dangerous, but that the only thing -- and you

must you return to work if you want to continue to receive unemployment benefits and that all you can do is file a complaint with the Labor Department. This is out of line with existing New York case law [unintelligible] [05:43:37] that says that if you have health and safety risks on the job, you can refuse to return to that work as unsuitable work and continue to get unemployment insurance benefits.

So I think it's very important that New York both fix their partial UI problem and that they clarify their rules around refusing to return to dangerous jobs.

SENATOR RAMOS: Thank you, pat. And the next person to testify, Nicole, oh sorry. I'm sorry. James, actually. James Parrott. My apologies.

MR. JAMES A. PARROTT, PHD, DIRECTOR FOR ECONOMIC AND FISCAL POLICIES, CENTER FOR NEW YORK CITY AFFAIRS: No problem. Good afternoon, distinguished chairs, members of these committees. My name is James Parrott. I'm director of Economic and Fiscal Policies at the

Joint Hearing COVID Impact on Workforce, 8-13-20

Center for New York City Affairs at The New School.

I've been trying to follow and understand what's going on in the current COVID-19 economy that's affecting the workforce. We've produced three pretty extensive reports on that. The most recent one was released this morning. I'd be happy to send a link around on that. A couple of the highlights from this research, one is that if you wanted to design an event to intensify the extreme income polarization with a dramatic racial dimension, you'd be hard pressed today find something more effective than a COVID-19 pandemic to do that, because it has created such lopsided effects. You have predominantly low wage, persons of color, immigrant workers, young workers, heavily impact by this. And on the other hand those people fortunate enough to be able to work remotely, still have their jobs, their benefits, their businesses are not on the verge of going under, and so on. This is really lopsided.

Secondly, of course, we all understand

the historic proportion of this decline. If you divide the number of people receiving unemployment insurance in New York, 2.8 million, by the size of the state's workforce in February, that would give you an unemployment rate of 28 percent, far greater than the, quote, official unemployment rate of close to 16 percent.

I want to focus my remarks today on the partial unemployment insurance issue. Before I get into that, I'd like to underscore the fact that New York's -- once you strip away the federal components of New York's unemployment insurance program, it's pretty mediocre. And I don't think that's anything that we should be proud of. The average benefits in New York State are $386 a week rank 21st among all states, the maximum benefit of $504 rank 20th. Both of those, the average and the maximum, are below all of our five neighboring states.

The U.S. Labor Department notes that a low taxable wage base and in New York, it's $11,400, that's considered well below average, is the main reason that certain states, including

New York, have perennial UI trust fund solvency problems. And any time you have perennial solvency problems, it limits the ability of the state to improve and modernize and extend the economic benefits of unemployment insurance and the protection and safety that it should provide to all workers, particularly low income workers.

The partial unemployment system that Patricia spoke about is particularly problematic. She actually touched upon many of the issues that I wanted to raise, so let me summarize by enumerating what I believe are five compelling arguments in favor of fixing the partial UI problem. Involuntary part-time work is soaring, as she noted. The number of workers working part-time for economic reasons is three times as large today as it was a year ago. Low wage workers who account for the lion's share of affected workers in New York receive very little in regular UI benefits to begin with. The partial UI approach in New York is a flat-out disincentive to work. That's been discussed. Then there's the issue of leveraging federal UI benefits. Again, the less

Joint Hearing COVID Impact on Workforce, 8-13-20

that's received in New York benefits, the less opportunity to access federal benefits, which have accounted for up until late July, accounted for three out of every four UI dollars paid out in New York. New York, as Patricia noted, desperately needs the additional consumer spending. Our sales tax collections in the month of June, which are a good indicator of the extent of retail sales and consumer activity, were 23 percent lower than a year ago. And finally, a fifth argument is that even if fixing the partial benefit problem leads to a slight increase in the amount a state UI trust fund must borrow, federal loans are interest-free and it makes great economic sense to pay better benefits now. And again it's also important to understand that if the UI trust fund borrowing does not impinge on the state budget.

Let me close by noting three related issues. The state law needs to be clarified to allow workers to refuse offers to return to work and retain their UI benefits when they consider that there are justifiable serious health

Joint Hearing COVID Impact on Workforce, 8-13-20

concerns with returning to work. It's also important to monitor Workers' Comp Board determinations on the ability of workers contracting COVID-19 through their work to receive adequate and timely workers' compensation benefits. And finally, there's the issue that Senator Ramos has championed, the 250,000 or so undocumented workers in New York who have been dislocated by what's gone on were not eligible for UI benefits or any federal economic assistance. Thank you.

ASSEMBLY MEMBER MCDONALD: Next shou

be Nicole.

SENATOR RAMOS: We have Nicole, mm-hmm.

MS. NICOLE SALK, SENIOR STAFF ATTORNEY, LEGAL SERVICES NYC: Good afternoon and thank you for having us testify today. I'm in great company here with all the folks on this panel, who know a whole lot about unemployment and the effect on the economy. My name is Nicole Salk. I'm a senior staff attorney with the workers' rights and benefits unit of Brooklyn Legal Services, which is part of Legal Services NYC. I'm also a proud

Joint Hearing COVID Impact on Workforce, 8-13-20

union member of UAW Local 2320. Legal Services NYC, as many of you know, is the largest provider of free civil legal services in the country with 600 staff serving over 100,000 low-income New Yorkers annually throughout the five boroughs.

I have been a staff attorney with Legal Services since 1997. For the last 14 years, I have represented workers at unemployment insurance hearings. I am also part of the New York Unemployment Insurance Coalition, UI Coalition which is a group of legal services providers from across New York State who advocate to improve access to unemployment benefits for unemployed New Yorkers.

I'm also counsel on the case of Islam v. Cuomo which was the case where we have been able to get, successfully get, a preliminary injunction against the Department of Labor regarding getting increased unemployment benefits for Uber and Lyft and other app-based drivers. I worked very closely with the New York Taxi Workers Alliance and I assume Zubin Soleimany will be testifying later specifically on some of

Joint Hearing COVID Impact on Workforce, 8-13-20

the issues in regards to misclassification.

I'm wanting to talk about once again, as many of the other panelists have talked about, partial unemployment. This has been an issue that has been ever since I've been doing unemployment, has been something that's been a disaster for low-wage workers. Since the beginning of the pandemic, members of the UI Coalition have been working diligently to help guide claimants through the difficult and confusing unemployment application process, which has been made nearly impossible to navigate given the large number of workers applying for unemployment.

Under New York's partial UI law, claimants only receive unemployment benefits if they work less than four days a week and receive less than the maximum rate, currently $504. New York's partial UI law reduces the claimant's benefits by 25 percent for every day they work, no matter how few hours they work, no matter how little they earn. Due to the economic downturn, many workers being offered part-time work as has already been talked about.

Joint Hearing COVID Impact on Workforce, 8-13-20

New York has the worst partial unemployment system in the entire unemployment insurance -- partial UI laws in the entire country, worse than Mississippi, worse than Alabama. Worst in the country. New York's partial unemployment system disincentivizes work and harms low-wage workers who are disproportionately black and brown. For example, J.B. who was furloughed by both his full-time and part-time employers due to COVID-19, receiving $504 per week in unemployment was called back to work by his second job. He was given a six-hour shift one day a week at the minimum wage of $15. He earned $90 for this work, this one day of work, six hours. However, his benefit rate was reduced by $126. Thus he lost $36 just by going to work on that day. It's pretty outrageous. If he were to work four days six hours a day and earn a total of $360, he would receive no unemployment benefits, losing $144 that week by going to work part-time.

The Assembly and Senate bills, Senator Ramos' bill creates, which is the Assembly Bill

0446 and the Senate Bill 05754, create a partial definite benefited credit or income disregard of 50 percent of earnings or $100, whichever is higher. It allows a claimant to work part-time while keeping part or in some cases all of their unemployment benefits.

For example, using the example of J.B. above, he could earn $90 and still keep his full weekly benefit rate. If he earned $360, he could still keep $396 of his unemployment benefits, no matter how many days he worked. This helps both individual workers, mostly low wage workers, many of whom are black and brown, but it also is good for New York as a whole and for the economy, and it's already been discussed by the panelists because, as has been mentioned, the same rules apply to the federal dollars. So we are losing federal unemployment dollars because we have not -- because of our terrible worst in nation partial UI law. I thank you for inviting me to testify on this crucially important issue for New Yorkers.

SENATOR RAMOS: Okay. Last but certainly

not least, Mr. Richard Blum.

MR. RICHARD BLUM, STAFF ATTORNEY, THE LEGAL AID SOCIETY: I'm Richard Blum. I'm the staff attorney in the employment law unit of the Legal Aid Society, and I'm also a member of UAW Local 2325, Jared is my friend and union president.

I want to focus on three issues. The first is the need for mandatory enforceable health and safety standards in the workplace. We've now heard quite a lot about this subject from unions in particular, who have the wherewithal and have put tremendous resources into trying to protect their workers. We represent people mostly outside the unionized sectors, people who are more on the margins, more subject to exploitation and abuse in good years. And without mandatory standards, they are incredibly vulnerable.

As President Cilento mentioned, there is a bill that we are working on, the New York Hero bill that would address this. I think it's very telling that the commissioner could only speak

about voluntary resolution where they bring something to an employer's attention and they get them to agree to change, but there are no enforceable mandatory standards, there are no fines at the present. President Cilento is absolutely right that we need steep fines as a deterrent to say to people this is unacceptable, it's bad, it's immoral, it endangers the workers lives, it endangers the lives of their families, their communities, the larger society, it's bad for the economy. It can lead to another lockdown. It doesn't prevent the spread of this horrible disease. And it also is a racial justice issue because the people most affected by these unsafe conditions are mostly black and brown people.

So on every count, this is critically important. I appreciate that the Attorney General's Office, which has been actually doing the fighting over this issue with more recalcitrant employers is calling for exactly this remedy. So I would urge that the legislature move this and move it forward quickly and get it done.

Second, I want to talk for a minute about unemployment insurance. In my written testimony, I detail a number of the, I would say self-inflicted, wounds of the Labor Department, how it bungled the administration of the unemployment assistance programs during the pandemic. There are a number of good examples there in the written testimony, but I would highlight two.

First of all, just to set the record straight, and I'm sure Zubin will speak about it later, the issue of the gig economy workers has nothing to do with PUA, has nothing to do with the federal rules or the delay in federal rules, nothing whatsoever. New York law is that they are employees, they're supposed to get unemployment insurance. Unemployment insurance has existed for a very long time. The rules are clear. The state simply was not complying with the law and wanted to get these people onto federal benefits and refused to process their unemployment insurance claims. That's why they're the in pickle that they are in. That's why these workers have been

so grievously harmed so that was completely a red herring.

The other point I wanted to get to is one that Trisha raised and that Senator Ramos raised in her questioning, which is that there's been an incredibly misleading guidance to the public about what their rights are to refuse to return to unsafe conditions. The case law is very clear but it obviously needs to be codified in statute. Fortunately, there is a bill that Senator Hoylman and Assemblywoman Jo Anne Simon have co-sponsored that would remedy this problem by clarifying the right to refuse unsafe conditions and that invoke the existing guidances that are now not binding to at least justify the decision not to return to work if those are being violated. So if there are no masks at your workplace, for example, you can say that is not safe, I'm not going to risk my life and I can continue to put food on the table, I don't have to worry about my UI being cut off.

I think it's egregious that the Department of Labor has misled people into not

Joint Hearing COVID Impact on Workforce, 8-13-20

knowing that that is their right and that they're referring people just to a complaint process that has no enforceability whatsoever.

Obviously, we support strongly the changes in the partial UI rule that all the other speakers have addressed. I think it's been thoroughly addressed. It's in our written testimony. So I'll stand on that.

And the last area I wanted to address was the excluded worker fund that's already been touched on by James Parrott. Senator Ramos has a bill with Carmen De La Rosa in the Assembly that would provide coverage for workers who are excluded from the unemployment system. We've talked a lot about people without work authorization, people who are expressly excluded about but also we have to look at the people who because they don't have access to the labor market for discriminatory reasons, don't qualify for unemployment insurance or any of the federal programs, in particular people who have been recently released from incarceration who have no access to jobs and cannot get the earnings that

they need to qualify for UI, don't have a job to lose due to COVID, so they are left out in the cold. And that bill would remedy that by providing income supports for these people and would address a very serious racial justice issue that we face. Thank you.

SENATOR RAMOS: All right, well, thank you. John, do we go first? It's hard to keep track.

ASSEMBLY MEMBER MCDONALD: Yeah, i

hard to keep track, but go ahead, senator.

SENATOR RAMOS: All right, I appreciate that. And I appreciate the testimonies in this panel because largely we're getting a lot of information that, or at least I was seeking from the DOL commissioner this morning in her testimony, especially as it pertains to why we need to expand partial UI. I'm wondering if, and this can be Richard, I feel like this can be any of you so feel free to jump in. What are some of the other big barriers for our communities to receive unemployment benefits aside from undocumented people? And I really do appreciate

you guys cooperating and collaborating with me and my team on our mark-to-market bill to tax billionaires and fund excluded workers. Carmen and I have been working really hard to get it to the finish line. But what other big barriers are there and some solutions to those challenges in our communities to access unemployment benefits? What else should the Department of Labor be doing?

MR. BLUM: The language access is a huge issue. Language Line is just not a good solution. It's not adequate. People wind up being disconnected while they're waiting for Language Line to come on and then no one calls them back. Any time we require people to keep calling into the system to get their benefits, it's not going to work. So they have to have much more facilities. It's not news that New York is a polyglot city. That's not something new. And, of course, it's unbelievable that they weren't making services available to people in Spanish. I mean, that's just astonishing. The PUA application originally was not available in

Joint Hearing COVID Impact on Workforce, 8-13-20

Spanish, only the automated system is available in Spanish, you know, and it's not available to anybody else. So language access is a huge issue.

The other thing is they have to get their forms right. They keep asking wrong questions that lead to automatic denials. They're asking the wrong question in the wrong way.

SENATOR RAMOS: What's a good example of one of those?

MR. BLUM: Well, one of them is that they ask people initially, they said are you available to work? Well, of course there's just been a lockdown, so the answer was obviously was no. People said no and then they got denied. Well, the real question is if it were not for COVID-19 would you be able to work? They subsequently changed the question. Another one that they've changed was can you telework? Well, it's not about can you telework, it's has your boss made it available to you as an option full time, right, so people said, yeah, I could telework, yes, if they answer yes or no, yes, I could telework. Denied. They finally changed that

in their twitter feed, right. But they didn't change it on the form. They asked the wrong question on certifications. They said, they told people that if you work at all any time during the week, you're ineligible for that week, and that's the correct answer, which is wrong, and their response to that was, we'll go back and talk to those people. They're creating their own administrative burden, their own inefficiencies and that's just completely inexcusable.

The communication with the public has been reprehensible, they will not answer questions about policy and when they do, as with this return to work thing, it's wrong. But we've sent numerous questions to them about how are you handling this? How are you handling that? And a lot of it was about unemployment insurance, let alone PUA, and they just don't answer the questions. They don't put out the information that people need. Communication is obviously with the agency are --

SENATOR RAMOS: All right. Thank you, Richard. Sorry to cut off, I have less than two

minutes to ask one more question and I'm possibly Patricia can help me out here. You said there is existing case law that says if you refuse to return to an unsafe workplace, you should qualify for unemployment benefits, but that wasn't the case now during the pandemic. If there's case law the on books, why isn't this the practice? And what can we do about it?

MS. SMITH: So I think one thing you can do about it is pass Assemblywoman Simon's bill that would clarify that. But I mean, I'm loathe to say this, but I think that some of the answer was answered by the commissioner this morning, where she was saying that if you, you know, uh, you'll get denied for unemployment, but if you are afraid to go in because of the pandemic, you'll get PUA. So it's like, it should be if you qualify for state unemployment benefits, you qualify.

But now because there are certain paneled-related issues, you know, I'm afraid that what people are trying to do is just say okay, there's a different source, so we're going to

deny you and then you're going to apply and then maybe you'll get and it maybe you won't as opposed to just having someone continue on unemployment.

SENATOR RAMOS: And can you tell me a little bit about the return to work guidance that at first the commissioner didn't remember or seem to remember where it even existed on the website. Why was that return to guide so wrong? What parts of it are misleading and incorrect and unsafe for workers?

MS. SMITH: It says that if you return to work because you feel that the workplace is unsafe, that you will be denied unemployment benefits, that your recourse is to file a complaint with the Labor Department, with their health and safety and then see if the Labor Department can resolve the issue. In the meantime, if the issue is not resolved and if you haven't returned to work, you also are been have been denied your unemployment benefits.

So there is no, there was no acknowledgment that under the state unemployment

Joint Hearing COVID Impact on Workforce, 8-13-20

insurance law, there is a right to refuse to return to unsuitable work, and that health and safety, now that doesn't mean that [unintelligible] [06:06:10] person who says I'm afraid to return to work is going to get on unemployment benefits, but if it's adjudicated, that there's a real health and safety risk that you should get your unemployment.

SENATOR RAMOS: All right. Well, my assistant and I thank you all for your testimony. It's been very insightful.

ASSEMBLY MEMBER MCDONALD: And on be of the Assembly, we also thank you for your testimony. The calculation of the partial unemployment is a little bit vexing and your input has been helpful. I know we've had success in the past in the Assembly moving that bill, but like anything else everything has to move together, and we're going to make some commitments to do that. So with that we're going to bid you adieu.

SENATOR RAMOS: Well, actually, sorry, assemblyman. I was actually just notified that

one of my colleagues in the senate raised their hand as we started to say goodbye. And that is state Senator Robert Jackson, Uncle Bob, take it away.

SENATOR JACKSON: Thank you. Thank you. I was like --

MR. RAMOS: Uncle Bob.

SENATOR JACKSON: Hi.

SENATOR RAMOS: You have a big fan.

SENATOR JACKSON: I was waving and I'm saying, oh, my gosh and then I was getting ready to try to dial you before we start off. So first let me thank the panel and Patricia, thank you for what you're saying even though, Jim, you reiterated what she said and we need to, we need to put pressure on DOL on that, Jessica, so whatever we're going to do, just add me in because I'm ready to fight on behalf of the people being able to say, listen, I cannot go back here, it's unsafe, you know, I'm jeopardizing my health. And if anything, you can always refuse a direct order if it's a direct threat to your health or safety. I know that.

But I want to ask about, since we're talking about COVID-19 and workers, Jim, I'm asking you, I saw your op ed or the article in the Daily News the other day. What would be the impact if in fact this coronavirus hits a second wave in New York City? And I not only ask that of you, but I'd ask that of the others, understanding that it's rising up all over the country, and especially with children going back to school.

MR. PARROTT: Well, we can talk about that for a long time. Not good. The impact would not be good. What we tried to do in the report today was essentially make the case that we're on the verge of experiencing a second wave of the economic impact as the $600 federal supplement goes away. That $600 received by 2.7 million New Yorkers is $1.8 billion a week in spending that had been coming into New York State and New York City. That's going away. Even with that, we had 28 percent unemployment in the state, 33 percent unemployment in the city. That amount, $1.8 billion is greater than the value of Social

Security received by all New Yorkers. It's greater than an annual amount of workers' compensation pay on a weekly basis. So that's going away. We're on the verge of experiencing heightened economic problems and job displacements just because of that.

SENATOR JACKSON: And Jim, I only have 42 second and I'm asking this for Patricia and others, do you think that we should raise revenue from the wealthiest New Yorkers in order so that we can deal with our economic situation, not only in New York City but if, in fact, there has to be cuts upstate, rural areas as far as education, healthcare agencies and localities will suffer tremendously. And so do you think New York City, one, should borrow and there should be an agreement on that, and number two, about the whole entirety state if we don't raise revenue?

MR. PARROTT: Just if I can respond to that quickly, so we really need to have another round of federal economic assistance. So we saw today that it might not occur until September, but it has to occur in September, otherwise it's

Joint Hearing COVID Impact on Workforce, 8-13-20

basically an entire political party waving the white flag. If that doesn't happen in sufficient scale, then rather than New York State or New York City cutting their budgets, it would be better at the state level to raise taxes on the wealthy, at the city level to borrow.

SENATOR JACKSON: Anyone else? Patricia, you're the former labor commissioner going back. I mean I think devastation will happen if, in fact, the state has to cut across the board with healthcare, with education, municipalities, and agencies, I mean, there will be tens of thousands of layoffs and people are suffering as it is now. That's my --

Ms. SMITH: Absolutely. And one of the things that I think that we've learned from these panels today is that there are a number of agencies that have been chronically underfunded like the workforce development agencies that we need more than ever, and we need to somehow raise the money to make sure that those agencies are appropriately funded, and more than appropriately funded, appropriately funded for the crisis that

Joint Hearing COVID Impact on Workforce, 8-13-20

we have now.

ASSEMBLY MEMBER MCDONALD: Thank you

And now, we will move on to Jo Anne Simon in the Assembly.

ASSEMBLY MEMBER SIMON: There we go.

Thank you. Thanks very much and thank you, several people for the support for the bill that would clarify the people's ability to return to, to not return to work if they're in unsafe conditions. I guess I would like to ask anybody really about a couple things. One is kind of whistle blower protection because if, in fact, you don't go to work because you feel it's unsafe, if you are unable to get something resolved through the Department of Labor, if you use that portal, what rights do you have with regard to blowing the whistle? We are concerned about the fact that 740 needs to be expanded and strengthened. That's one question, because to me they sort of lead one into the other.

And then the other question is it's sort of a combination of standards, but also if you feel the workplace is unsafe, how can a person

who is fearful of going to work because there isn't PPE, but PPE is not mandated, it's not a strict standard, it's kind of guidance, are people going to have difficulty with unemployment if they can't prove that the PPE is required, for example? So it seems to me there's not enough teeth in those requirements and that's what I'd like you to address.

MS. SMITH: I'd like to talk about 740. I spent 20 years in the Attorney General's Office, and one of the things that we did was where we were in part responsible for enforcing Labor Law 740, and it is the most narrow whistleblower law in the country when it comes to health and safety, which was explained in earlier panels so I won't go over it.

ASSEMBLY MEMBER SIMON: Thank you.

MR. BLUM: We need to amend 740. We also, the New York Hero bill that we talked about, includes anti-retaliation provisions, anti-interference, anti-discrimination provisions and it has some teeth to that, so we don't need to wait until the logjam over 740 gets resolved

to move forward on that.

ASSEMBLY MEMBER SIMON: Okay. Thank

SENATOR RAMOS: All right. Thank you, assemblywoman. Up next, we have former assemblywoman and current state Senator Shelley Mayer.

SENATOR MAYER: Thank you. Thank you, Madam Chair. It's good to see you Patricia, it's wonderful to see you. I have a question for you and I know we're not supposed to be going backwards but this is a legal issue where I really would value your opinion. At the onset of pandemic, when the Department of Labor indicated that PUA would be available, they took a position you had to apply for traditional UI, be denied before you were eligible. Other states took a different position, which was a presumptive eligibility. I argued with the Department of Labor and I think they subsequently were saying that was because of federal regulations. They changed their position.

Do you have a position about whether that period -- and the only reason I'm making a

point of this is because so many of our constituents that were not eligible for traditional UI were frustrated by the length of time it took to get PUA and the poor communication by the Department of Labor about it. I wonder if you had a position about that interpretation of the law.

MS. SMITH: So, yeah, I do have a position, which is that the department, the U.S. Department of Labor's position was very muddled, so in my opinion you could have on the basis of that opinion, taken a liberal interpretation or a conservative interpretation. And a liberal interpretation was you did not have to apply and get disqualified. Unfortunately, some states took that position. New York did not take that position. But I don't think that it was absolutely required even from the earliest guidance. The earliest guidance was very muddled.

SENATOR MAYER: Thank you. And, James, I'm so happy you talked about the economic impact of the $600 because in districts like mine that go from the Bronx border to the Connecticut

border, the spending of that $600 has kept parts of our economy afloat that without it, as you point out, would not. So I understand, we may or may not get some substitute or some lesser amount or something else, but from an economic point of view, not for the recipient, but for the economy at large, have you done an analysis beyond your $1.8 billion a week in spending? What will be the long-term impact of not having that additional supplement to UI?

MR. PARROTT: No. We haven't done that. I mean partly because it's hard to hold everything else constant and then make a projection of what difference one factor will have. But generally, of course, the point is, is that it's the opposite of what we need. There's a lot more, even than what's being talked about in the house bill, the $3 trillion house bill. It's a good start. Obviously, there needs to be a lot of state and local fiscal relief or we're going to see the kind of layoffs and public service cuts that have been talked about, and we know that would be forthcoming in New York.

Joint Hearing COVID Impact on Workforce, 8-13-20

I think the, the duration of the elevated levels of unemployment that we're looking at are going to require substantial public service and public works infrastructure jobs programs. It's not just enough to pay people not to work. I mean, it's better than cutting off their unemployment insurance. It would be better to put people back to work. And we're seeing unfortunately, a lot of businesses close down because they can't operate at a fraction of 100 percent of normal capacity and business revenues and hold on. Those jobs, we will not get back, so we're going to need to start figuring out how we're going to fill that hole. That's going to take job creation programs on a big scale.

SENATOR MAYER: Thank you. Thank you very much. Thank you for the panel.

ASSEMBLY MEMBER MCDONALD: Thank you and from the Assembly, Robert Smullen.

ASSEMBLY MEMBER SMULLEN: All right I've got video. Chairman, thanks so much for having us here. A couple of the comments from the panelists stirred some thoughts in my mind that I

want to get a little bit more definition on them, particularly from Ms. Smith regarding the scalability of unemployment insurance benefits.

What is the history, briefly, please, of legislation in New York State over the past decade? Now we're here in a crisis and we don't have the scalability which would allow people to get partial benefits, at the same time to get them back to work, and it's very awkward, and there's a federalism problem between the state and federal statutes. What is the brief history of that? Why hasn't that been done before?

MS. SMITH: Insurance is a program which I believe is totally underappreciated in this country, and so in times of crisis everyone's focused on it and when the crisis passes, we forget about it. So I just want to talk about the fact that New York benefits have gone up very slowly. They've not gone up at all. Twelve years ago when I was commissioner of labor, we were trying to fixed the computer program. We realized that --

ASSEMBLY MEMBER SMULLEN: It's not

fixed.

MS. SMITH: We were trying to fix it. We realized the federal government was not giving us enough administrative money to fix it, so we went to the Assembly, and we got -- and we wanted New York State money, I mean not the Assembly, the legislature -- and we got a little bit of money, not as much as we needed, and so the fixing it has -- and I don't know what's happened recently but I mean it's very slow. So it's going to take money to keep the infrastructure up. This is -- the infrastructure problem is not just a New York problem. It's a problem around the country because the federal government has, Democratic and the Republican administrations have simply not invested the in the infrastructure of unemployment insurance.

ASSEMBLY MEMBER SMULLEN: I can c see that's the case. And the problem there, and as everyone knows, is that money from the federal government, in this case money that's borrowed, has to be paid back. It becomes part of the national debt. And I just want everybody, and not

only my colleagues and the panelists throughout today, that this is not free money. This is money that's been borrowed in the full faith and credit of the United States government that indeed has to be paid back and it becomes part of the debt load that's part of the federal taxation sort of thing. And I know New York is very concerned, as am I, about our resource return from our federal government sort of thing.

But I think this is an issue that New York itself can solve through good solid public policy, having scalable unemployment insurance benefits that are well thought out, well crafted, and I would certainly pledge to work with all my colleagues to get this done, so we don't have this crisis again when there's a severe economic downturn. Thank you very much, Mr. Chairman. I appreciate the time and thank you to the panelists for your very informative, very knowledgeable and very appropriate testimony. Thank you.

ASSEMBLY MEMBER MCDONALD: Thank you Senator, we're good on the Assembly, how about

Joint Hearing COVID Impact on Workforce, 8-13-20

the senate side?

SENATOR RAMOS: The Senate's all good here. I think it's time for one of those good union breaks.

ASSEMBLY MEMBER MCDONALD: Yeah, a little ten-minute tidy.

SENATOR RAMOS: Stretch it out, guys. See you in ten.

ASSEMBLY MEMBER MCDONALD: 4:55.

[OFF THE RECORD]

[ON THE RECORD]

ASSEMBLY MEMBER MCDONALD: Well welc back, everybody. Panel number eight is seated and ready to go, I believe. So let me introduce them and they can go on with their five minutes of testimony, in this order if possible. Jacalyn Goldzweig Panitz, with the Legal Aid Society of the City of New York, and three workers Julianne Barrington, E. Jeanne Harnois and Gaela Solo. Welcome to all. Here's Jacalyn. Everybody is here, all present and accounted for. Jacalyn, why don't you start us off?

MS. JACALYN GOLDZWEIG PANITZ, PARALEGAL

Joint Hearing COVID Impact on Workforce, 8-13-20

CASEHANDLER, LEGAL AID SOCIETY OF NEW YORK CITY: Okay. Thanks so much, good afternoon everybody or good evening. Like you said, my name is Jacalyn Goldzweig Panitz. I'm a paralegal at the Legal Aid Society of New York City. Today, I am speaking on behalf the Unemployment Insurance Coalition. I'll be sharing the stories of our clients who couldn't be here today and who have been hurt by New York State's partial unemployment insurance rules. I'm really thrilled to be going after the past panel.

So, the first person I want to talk about is Hava Adams, she's a single mom in Manhattan, a special education provider for preschool and grade age children. She works directly with families on a schedule that's set by the Board of Education usually for an hour a day for four days a week per child, four days throughout the week. A colleague of hers, Sherry Castle, has taught preschoolers with disabilities for 30 years. Special education and early intervention providers can be assigned by the department of education to cases with as little

as 15 minutes of instruction per day, spanning across the week for maybe an hour. The reason is because of the toddlers and little kids can't pay attention for that long. When the pandemic hit and learning went remote, Sherry and Hava's caseloads fell dramatically. Hava's income was immediately halved, and some weeks it's only been 20 percent of what she formerly made. So they both, both Sherry and Hava applied for unemployment insurance in March. But they've also continued working four days a week, often with only one billable hour per day.

Through New York State's partial unemployment insurance rules, it's telling providers like Sherry and Hava to either drop their cases, their caseloads with vulnerable kids, so that they are working less than 4 days or miss out on benefits. They told me that's the a choice that a lot of people in their industry have had to make. Sherry and Hava themselves have lost out on thousands of dollars of benefits including the extra $600 a week, and it's worth noting here that it's independent contractors,

Joint Hearing COVID Impact on Workforce, 8-13-20

their benefits would have been coming from the federal government in the first place through pandemic unemployment assistance, not New York State.

Now, they're behind on bills like rent. Sherry wants elected officials on this panel to think about how we value special education providers and she wonders why educators like her are being overlooked. I also want to pause here and note this field is dominated by working women, a lot of working mothers. And the issue of partial unemployment has been at the center of conversation in the industry.

Another worker I want to highlight today is named J.S. He worked two jobs, one full-time and one part-time. When he lost his full-time position, he kept on working part-time at K-Mart doing the overnight shift, stocking shelves. Because of the current partial unemployment insurance rules, every overnight shift is considered two days of work, reducing his benefit amount in half for every shift he works. An advocate with the Unemployment Insurance

Joint Hearing COVID Impact on Workforce, 8-13-20

Coalition did the math. For every dollar J.S. earns, he loses out on $3 of unemployment insurance benefits. Working just two shifts a week means losing benefits altogether for the week and it's devastating for low wage workers like him.

And look, this might seem like savings for the state, right, but without access to benefits these workers aren't able to pay their bills, or buy groceries. Take Elaina's story. She worked at a Head Start program in Brooklyn before the pandemic and she had her wages and her hours slashed, slashed in March when learning went remote. She's not eligible for benefits because she's still showing Monday through Friday, though again her hours have been drastically cut.

And in April, she had to apply for SNAP benefits in order to feed other family. As a DACA recipient and a family full of immigrants who had also were laid off or seen their wages slashed. Access to those unemployment benefits would be life changing for the family.

For the sake of time, I want to end the

Joint Hearing COVID Impact on Workforce, 8-13-20

experience and the story of Bernadette, an elderly woman who lost all of her benefits when she agreed to spend just one hour a day handling garbage for the small apartment building where she lives just for a break on rent. Thank you for the opportunity to share these stories. I'm really excited that there's some workers who are going to follow after me and tell their own stories. I was really encouraged by the comments of all of you legislators in the last panel and I really hope there's fast action on this.

ASSEMBLY MEMBER MCDONALD: Thank you also want to recognize Justin Green-Williams is listed here and also Yamilez Quinones, who I see has company with her as well. But is Julianne Barrington available?

MS. PANITZ: She is not going to be able to testify.

ASSEMBLY MEMBER MCDONALD: Okay. We see Jeanne is there. Can you join us?

MS. E. JEANNE HARNOIS, WORKER: name is Jeanne Harnois and I am here today as an unemployed worker affiliated with Unemployed

Joint Hearing COVID Impact on Workforce, 8-13-20

Action, a 14,000 member project at the Center for Popular Democracy. I have lived in Washington Heights, Manhattan for over ten years, working as a writer editor and then as a business analyst. Before pandemic hit, I had just been laid off from a two year consulting assignment for Wells Fargo making approximately $100,000 a year. In addition, I worked a freelance editor and writer generating various degrees of income. In prior years I've also supplemented my income especially during periods without full time work by picking up side work, including working as a background actor, being a poll worker, dog walking and picking up holiday retail shifts at stores like Macy's and Barneys.

I'm also honored to represent the following three workers whose written testimony is being submitted. I'm reading directly from their bios. My name is John Smith. I live in Manhattan and for many years I have worked full time in the development department of a university in the city earning a salary of about $90,000 a year. I'm also trained as a social

worker and I supplement my income by working part time as therapist for an organization that provides counseling services.

My name is Abigail P. I grew up in Brooklyn, where I still reside. I'm 26 years old of Asian descent and have a college degree. I started a new full-time job in October 2019 at a cultural institution in New York City and was furloughed six months later in May, during the pandemic.

My name is LRF and I live in Nassau County. Prior to the onset of COVID-19, I held two part-time positions, one as teacher with a local nursery school where I'm still employed Monday through Friday. I also work part time as manager for a pet care company. The onset of pandemic had an immediate effect on my position with the pet care company.

So as you can see, when it comes to our workforce, it's New York, tough enough for you yet? When I was laid off, I became eligible for the maximum New York State amount of $504 hour and then the additional federal amount of $600.

If I do not have taxes withheld, that brings me to just what I was making before I was laid off. And yes, that is relying on not withholding taxes, which means that I'm looking at a massive tax bill next April, but one year's crisis at a time.

What I am facing now is that if I take on additional work, I will lose benefits equal or greater than what I would earn on a supplemental job. Part of the reason for this is that the unemployment insurance system is running on not just outdated computers, but on outdated ideas. The U.S. system assumes that everyone has one steady job, 9:00 to 5:00, Monday through Friday. But the reality is so different.

New York is all about the side hustle. A fair number of people have a regular job and when they're done with that for the day, they go onto a second job or professional passion. As most effective, the UI system would mirror that reality and be a safety net to help people transition into an appropriate full-time job, not penalizing them for attempt to go maximize both

Joint Hearing COVID Impact on Workforce, 8-13-20

their earnings and professional potential. Flourish or suffer.

When people like John Smith are able to work as therapist, New York is a better place. I knew I was in trouble when the pandemic, hit because of the simple fact that I'm a woman over, not just over 40, but over 50. I am 57. My age is something that I have decidedly kept hidden for the past several years, specifically regarding my work. I'm sharing it with you today because of how important this issue is and to impress on you my sincerity in working towards a solution.

In the past several weeks, I have talked to lot of older workers, who like me, have been dealing with issues surrounding age discrimination and discomfort, the discomfort of other people, specifically hiring managers and co-workers. My fear, shared by other workers that I have talked to is that employers are using the pandemic to favor younger workers who they perceive to be lower risk and who they can pay less too, by the way.

They can turn me down for COVID-related

fears but I can't turn them down. I recently started with the Census. This is by no means an equivalent job to what I had before and certainly doesn't even remotely take advantage of my skills and experience. I have two master's degrees.

Despite precautions, I feel that it is unsafe, as it involves regularly touching high touch surfaces, going to people's homes where they most likely are aren't masked and having five to ten minute conversations with people in their ecosystems over and over again. I have autoimmune issues. And the thought of having to do this petrifies me, especially as without full-time work, I have very sketchy health insurance. That's a hearing for another day.

I have not seen my mother, who lives in congregate care out-of-state and is ill, in several months, but I feel forced into doing this work going into strangers' homes, as if I refuse it, I risk losing my benefits. And then what? I'm single person living alone, It's a real Sophie's choice, my health or roof over my head.

I urge you to stand up for New Yorkers

Joint Hearing COVID Impact on Workforce, 8-13-20

and support them through this crisis. Through solid leadership, you can take action and get rid of the penalty for part-time work, better reflecting the reality for a significant number of workers in this state. You can also set a firm guideline protecting workers from being forced to accept work that may be unsafe for them or a member of their family during this time. Thank you for the opportunity to talk today.

ASSEMBLY MEMBER MCDONALD: Thank you Jeanne and we're just going to work right on the screen from what I see. Gaela, you're up next. Welcome. I hope I said that correctly.

MS. GAELA SOLO, WORKER: That's all right. Thank you for having me. Good afternoon everybody. My name is Gaela Solo. I am a young transgender Latina woman and I live in New York City. Up until mid-March 2020, I worked two jobs as a bartender and a server at a bar and restaurant, both located in Midtown, near Times Square. I worked over 40 hours each week and earned between $800 to $1,000 a week. However, when the COVID-19 crisis hit, the restaurant and

bar both shut down and neither has reopened.

I filed for unemployment with the New York State Department of Labor and began receiving unemployment benefits from the state plus the additional $600 a week that the federal government has been providing during the crisis. Together, they replaced my missing income and allowed me to continue paying my rent and my other bills.

In early July, however, I had an opportunity to return to work part-time, not at my old jobs, which were still shut but new job working part-time from home, helping to staff a help line, providing peer support for persons needing assistance during the COVID crisis. I started my new job in early July, after the Fourth of July weekend.

However, the help line job, which paces about $17.25 an hour offers me just 15 to 16 hours a week, spread over four days. I appreciated getting back to work and I enjoy the new job and being paid to help others when so many are going through times of personal,

economic and health crisis. But the new job provides less than half the hours that I used to work and pays me only about $260 to $280 a week. I had thought that after taking this part-time job, I would be able to keep receiving some of my unemployment benefits. Although I thought they would go down somewhat, which would make sense, but when I certified for unemployment, on the New York State Department of Labor web the week after I started my new job, I was shocked to learn that my $260 earnings spread over four days made me ineligible to continue receiving any unemployment benefits at all. As a result, in July, I stopped receiving both my New York State unemployment benefits, which had been at the maximum allotted amount of $504 a week and I also stopped receiving the $600 a week additional federal unemployment payment.

Because of losing unemployment, my weekly earnings have been slashed from $1,104 per week to just $260 now. That doesn't come close to enabling me to cover my basic living expenses even after cutting back. My rent alone is $1025 a

month. My other basic expenses like my food, my cell phone, my utilities, my health insurance, my medication and my credit card bills add up to more than $450 a month. My student loans, which will commence after the stop payment period ends on September 30, will add an extra $150 a month.

I was fortunate to have a small amount of emergency savings, so I'm now living off that and my part-time job. But it will not last me that long. And when it's gone, I don't know how I'm going to be keep paying my rent and other expenses.

I know there are many other New Yorkers in the same situation as me, people who lost full-time jobs and have been able to find part-time replacement work, but then lost their unemployment insurance cushion when they accepted the part-time work and are now facing extreme economic crisis.

My understanding is that other states allow unemployed workers who return to work part-time to keep some or all of their unemployment benefits. And that the New York legislature could

change New York's unemployment laws to do the same.

I strongly urge you to do that. If that doesn't happen, I just don't know how I and the thousands of others like me who have returned to part-time work are going to survive the coming months until the economy reopens and we can find full-time jobs that pay our bills. Thank you very much for the opportunity to share my experiences with you today.

ASSEMBLY MEMBER MCDONALD: Thank yo

Thank you very much. And Yamilez, you're next.

MS. YAMILEZ QUINONES, WORKER:

hear me?

ASSEMBLY MEMBER MCDONALD: We can h

you.

MS. QUINONES: Well, hello may name is Yamilez. I am actually a COVID survivor. I was with it for four weeks. I was pregnant with the little one here, and I was frustrated with the unemployment office. I had to get in touch with them about myself and then it was not getting anywhere. I was getting hung up many times. I was

waiting for more than two hours on the phone. I was getting very frustrated, knowing I didn't know if I was going to survive or not through the situation that I was going through so I decided to get in touch with Senator Skoufis. And he was wonderful and gentleman named Mr. David Ravitz, who was amazing specialist, who because of them I was trying -- they got in touch with unemployment for me. They have, I still have the problem with the issues of my payments. My payments, I'm still waiting on things that have been with since April. And they've been having wrong information. I've been giving them everything they needed and still people that are working for the unemployment office, they need a little bit more training, because they're -- some of them are very rude, disrespectful. They will hang up the phone with you, they get frustrated. They don't know a lot about the base rates and stuff like that, that has happened with my case.

My case has been a very difficult case for Mr. Skoufis. It's been awful. They have had me with different kind of base rates and

different kind of payments. And then they have had me with not paying me the right amount of the unemployment CARE Act, missing CARE Act on it, weeks missing and right now they had to redo my case all over again, so they can get the right base rate and I'm just frustrated with the whole situation with unemployment.

I tried to go and speak to many different people, but every time there's somebody that reaches me it's back to square one. So I'm thankful for Mr. Skoufis anyway, because if it wasn't for him, I wouldn't be able to get in touch with none of these people, you know, actually, grateful to him. And to Mr. Ravitz, because right now my situation is supposed to be clearing up, they did tell me that there's supposed to be in three weeks giving me the amount that is still owed to me. But it should have been a little bit sooner, so they're working that in Mr. Skoufis office to get it before three weeks, because it shouldn't take at that long for the accounting to already give me what is owed to me.

Joint Hearing COVID Impact on Workforce, 8-13-20

So being a single mom and a survivor of COVID-19 it's a lot and going through my postpartum depression, trying to deal with that part of what's going on with me, it's a lot tougher when you have somebody that closes the door at you and don't want to help you. And if it wasn't, like I said for Mr. Skoufis, I would have still been struggling having that door closed.

ASSEMBLY MEMBER MCDONALD: Thank you

MS. QUINONENS: So I'm like I think that they should have better training, more people that are caring for other people that are going through difficult situations. I think it should be more appreciative, you know, to understand that not everybody is in a position to be able to pay their bills and to be able to not lose anything that they have, you know, being a mother of four kids. I have a 17-year-old, 11-year-old, a 2-year-old and a newborn. So it's kind of hard. And for me not to receive my payments, it's frustrating because you've got to look on ways to try to survive, to make it for them. It's just, it's hard, and I would like for everybody to

understand, be more understanding, be more helpful, not be judgmental, you know, and not to be hanging up the phone. Just make sure you can get to the bottom to helping that person. And that's something I would like. And that's something that I actually am thankful for Mr. Skoufis, because through him and Mr. Ravitz, they're wonderful people that are helping me through the whole thing to getting to what is needed for me to receive for me and my boys. Because I only have four boys, so that's my major concern.

ASSEMBLY MEMBER MCDONALD: Thank you Thank you very much for your testimony, and to actually all the members of the panel. Senator? We'll turn it over to the Senate.

SENATOR RAMOS: Thank you. Well, as the mother of two boys, I can -- here they are -- I can definitely vouch that it is very hard work, figuring everything out, especially if you're on your own. It has been, sorry my dad just got here. It has been, I think, a very difficult system to navigate for people in general, much

less if you have very few access to resources, and I'm glad Senator Skoufis was able to help you and I know he has a wonderful staff.

I wanted to ask the first panelist, particularly about that New York hustle. I often like to say, especially as chair of labor, that the unemployment rate is actually a very deceiving metric, because especially as we enter the shared economy and now during the pandemic, we realize we depend on a cash economy much more than before. We don't actually calculate how much people have to have one, two, three jobs and then we wonder why parents don't have time for their children, right? So can you speak to a little bit about how the economy has changed in that way? And and where we should be headed?

MS. PANITZ: Sure. Were you referring to me or Jeanne?

SENATOR RAMOS: You, yes.

MS. PANITZ: Okay. Well I mean look, I don't think there -- there are some industries that haven't changed. They just don't fit within the box that unemployment, the Department of

Labor considers when you think about work. But, a lot of people are finding themselves doing the sort of work that consists of two-hour shifts. Some folks are finding themselves doing volunteer work now and are not able to access benefits because they're volunteering. So the Department of Labor doesn't consider them to be ready, willing and able to work.

But I'm just, I'm here only to share the stories of at that were shared with me by the worker clients of the Unemployment Insurance Coalition so I do really want to defer to the workers on this panel to share their experiences.

SENATOR RAMOS: Okay. Well, for the workers, can you tell me, and you guys obviously touched upon this in your testimony, the friendliness or unfriendliness of the DOL, and I mean user friendly and exactly how long did it take you to navigate the filing process? And was the Department of Labor in any way, shape or form, whether it was through materials online or one of the DOL servers, one of the DOL workers, were they able to give you guidance throughout

the process?

MS. QUINONES: No. Not with me. There was no guidance for anything that had to do with me. I had to do it on my own, which, you know, I had to go online and figure it out what I had to do and read up on it, because they would tell you one thing to do, and like to claim a weekly and then they'll tell you not to -- when you have to say that you are ineligible to work. And then in the time that it says that you were off for that pandemic that we were not able to work because it was by law that we were not supposed to go to work, and they will tell you, oh you have to say you're not eligible to work or you're eligible to work. They were always giving me wrong information. And every time they gave me wrong information, they decided to give me a penalty. It got to the point they gave me a $2,000 penalty on my case. And I had to reach Mr. Skoufis and Mr. Ravitz investigated on that and they had to actually eliminate it from my account, because due to their mistakes and everything like that, and the wrong information that they were giving

me through the process after I had my son, they were still giving me a hard time and they gave me a $2,000 penalty.

And like I said, a lot of staff members are not very savvy of how get their information across with the person who is applying for the unemployment. So I have tried many different people, even I have people that called me that were working for 18 years that told me them self they didn't know what to do with my case, and trans transfer me to somebody else. And once at the transfer me, I was on hold or two or three hours. And then when they transferred me to that person, they hung up the phone. So then that was back to square one, to talking to Mr. Skoufis' office. So it was, I'm still having a frustration with --

SENATOR RAMOS: I'm sorry that you had such a difficult time. I mean, but I'm glad your senator was able to step up for you. I mean that's exactly what all of state legislators here are supposed to do.

MS. QUINONES: Absolutely.

Joint Hearing COVID Impact on Workforce, 8-13-20

SENATOR RAMOS: Thank you. Oh, okay, right on time.

ASSEMBLY MEMBER MCDONALD: We shall continue with the senate.

SENATOR RAMOS: Okay. In that case, I'll actually -- we'll switch over to Senator Skoufis.

SENATOR SKOUFIS: Thank you. And thanks to all of you for sharing your stories. Quite frankly, I think this is one of the more important panels that we have today, is listening to a handful of the many, many, many thousands of New Yorkers who were just on the receiving end of a lot of pain because the system did not work for them. And Yamilez, thank you for your kind words, it' really unnecessary, we're doing our jobs, as Senator Ramos pointed out, in all of our offices. We're doing our best. And we, my office we helped over 4,000 people with unemployment problems during the pandemic, which, a previously unthinkable volume of people who were reaching out and just having problems.

And when we were going through the list of our constituents who we wanted to have their

story told today in this hearing who had compelling, really awful situations, I don't know if it's a good thing or a bad thing that we chose you, but we felt that you were among if not the most compelling, you had COVID, you were pregnant, you've just had all these enormous difficulties, and we felt that your voice was really important to share.

And I do hope, the Department of Labor commissioner testified earlier this morning. I hope she's listening to your story and the others that were just shared with us, because you're still not resolved. In fact, they tried to penalize you. Not even like work to process your claim, they were actively trying to penalize you. So it's really just outrageous how the system failed so many people, including yourself.

And I guess a couple things. First, if you had a moment with the commissioner, Yamilez, what would you tell her for the next time, right. I mean we're still dealing with your situation and we hope to get that completely resolved very soon, but next time there's an unemployment

crisis, what do you want to tell her now that would encourage her to be better prepared? We've heard, you shared that there needs to be better training. It's, quite frankly, unacceptable that you're passed off from person-to-person. You have to start over and you're hung up on. But if you could tell her one thing that you think would help not just you if you're in this situation again, but all New Yorkers for the next time this happens, what would you tell her?

MS. QUINONES: I would tell her, you know, to have her group or staff be more prepared to help without being so, some of people were so aggressive. I would tell her if she could have a meeting with her group and make sure that everybody is on the same level of speaking and of helping other people that are going through the same situation that I'm still going through. And that they have the right information and the right equipment to help the person that is really needed to be helped instead of passing them on like there's just a tool.

SENATOR SKOUFIS: Can you just go into

that a little bit. So when you had someone on the phone, and it sounds like you've gone through this a number of times. You explain your situation, and they just tell you, we don't know how to help you?

MS. QUINONES: Unfortunately, yes. I have had on my case already ten people working on it. Ten different people have worked on my case and they, same thing. I see that you have so many issues with your unemployment. You have so many different papers that we have sent you. You've got so many different benefit rates. We don't know how to help you so I'm going to transfer you to the other person who can help you. Then they'll transfer me and have me waiting for two hours. And then when they get me to that person and they tell me --

SENATOR SKOUFIS: And who -- sorry to interrupt you. And so who are they transferring you to that they think could help you? Is it -- it's not just presumably, another regular representative who's picking up these calls, are they transferring you to a supervisor? Who do

they think is able to help you that they cannot?

Ms. QUINONES: Well, in one of my cases I was transferred to a lady named Sherry that was with 18 years experience and when they transferred it to her, she was stunned how my case was out of order and she was like I'm really sorry. I haven't in 18 years, she said, I have never seen a case so terrible as yours, so I'm really not able to help you. I need more help with your case and she transferred me and then there goes the line and they hung up me. So I was going back to square one.

SENATOR SKOUFIS: Yeah. I'm sorry that you're still going through this. I know my time is up. And I'm committed and I know my team is committed to seeing you through to the end of this process.

MS. QUINONES: Of course.

SENATOR SKOUFIS: And, we're going to get this straightened out soon. But thank you for being here and sharing your story.

MS. QUINONES: Absolutely. I thank you very much for the opportunity that you guys have

gave me to speak on behalf of all the problems that I'm having in this situation. Because maybe somebody out here is having the same problem and they don't how to go about to get the help and knowing a person like me can go ahead and find different ways to get the help and hopefully can get to somebody that will help them and do the same thing I'm doing, going step by step and go through the letters to get the adequate help that they need.

SENATOR SKOUFIS: Absolutely. Thank you again.

ASSEMBLY MEMBER MCDONALD: Thank y

From the Assembly, it would be Marianne Buttenschon.

ASSEMBLY MEMBER BUTTENSCHON:

have to unmuate.

ASSEMBLY MEMBER MCDONALD: We have

figure out a code word for unmuting. I haven't figured one out yet, but go ahead.

ASSEMBLY MEMBER BUTTENSCHON:

very much for all of you being here today. Listening to what you've gone through, it's

unacceptable. And I just want to thank you for staying steadfast and continuing to be supportive within our community. And I will work with my colleagues to ensure that someone that is willing to continue to work and needs that extra benefit that it comes to you. So I'm just saying thank you for all you're doing and what a beautiful baby.

MS. QUINONES: Thank you. Thank you very much, ma'am.

SENATOR RAMOS: On our end, to close, we have Senator Robert Jackson.

SENATOR JACKSON: Let's see. Hi, everyone. Hello, everyone. Well first, let me thank all of the panelists for staying the course, even though all of you are in your homes but you've been our guest on this Zoom call, waiting for your opportunity to be heard. And let me just say to all of you, from all of us panelists and the chairs of the various committees, the co-chairs, we hear you loud and clear.

And we have to find a way, when we get

back up in Albany or even after this, to introduce legislation to deal with the situation with part-timers, Jessica and other co-chairs, it has to be done, as per the previous panel talked about, the former commissioner for labor and others. It's just, it causes people to -- people want to work, but if in fact they're going to be losing benefits that they absolutely need, it causes people to say, why should I talk a part-time job if I'm going to lose the majority of the benefits from unemployment that I need to survive?

So we're going to find a way. I do thank all of you because it was good hearing your individual testimonies, as to what your situation is, especially for us because we listen to the commissioner and other people, from the attorneys and other people that are negatively impacted, obviously from an organizational point of view, but to hear it from you directly, each and every one of you, and one of them was my constituent. I think that was -- one of them.

SENATOR RAMOS: I think it was Gaela,

right? Was it Gaela who was your constituent?

SENATOR JACKSON: The woman with the red hair.

SENATOR RAMOS: Oh.

ASSEMBLY MEMBER MCDONALD: Jeanne.

SENATOR JACKSON: Jeanne. She said she lives in Washington Heights and that's my district.

MS. HARNOIS: Yeah, I voted for you, don't worry.

SENATOR JACKSON: Thank you.

ASSEMBLY MEMBER MCDONALD: Well, yo an extra minute now.

SENATOR JACKSON: You laid out what you're trying to do to survive and how many opportunities it takes and how you have to be on your P's and Q's. And that's important and we need to, as legislators need to make it easier for people to get what they're entitled to. And so I thank all of you and thank the chairs for having this hearing. I'm still in there listening to what everyone has to say. Thank you.

ASSEMBLY MEMBER MCDONALD: Okay.

Joint Hearing COVID Impact on Workforce, 8-13-20

SENATOR RAMOS: All right, well I think that closes us out for this panel. Thank you so much to everyone who testified, for believe it or not, our ninth panel today, we have four people testifying. Sorry, three people testifying, I was actually just notified. We have Zubin Soleimany general counsel for the New York Taxi Workers Alliance. We have we have Rafael Espinal, executive director of the Freelancers Union, and we have Stephanie Freed, who is a worker and co-founder of ExtendPUA.Org. Thank you guys for joining us, that will actually be the order of testimony and Zubin, if we can start with you, you have five minutes on the clock to tell us all about your story. Thank you.

MR. ZUBIN SOLEIMANY, GENERAL COUNSEL, NEW YORK TAXI WORKERS ALLIANCE: Thank you so much, Chair Ramos and to your assistants and Chair McDonald. So, my name is Zubin Soleimany. I'm the general counsel for the New York Taxi Workers Alliance. We're a 23,000 strong union of professional drivers in New York City. That's yellow cab drivers and about half of our members

now drive for Uber and Lyft. And they have since their entry into the marketplace but especially during the pandemic, been feeling the disastrous consequences of employment misclassification and especially in the unemployment context.

The pandemic has really exposed the inhumanity of that situation, but it's also exposed the ways -- the lack of willingness on the part of the DOL and the current administration to meaningfully address that misclassification.

I feel like I need to start out by setting the record straight. I think there was some inaccurate testimony earlier about the legal framework and the status of drivers in the state. There is a final decision issued by the Unemployment Insurance Appeal Board in 2018 that says Uber drivers and all similarly employed are employees for UI purposes in New York State. Uber did not appeal that decision and it's final. The Court of Appeals decision in Postmates further solidifies that decision.

We entered this pandemic knowing the

Joint Hearing COVID Impact on Workforce, 8-13-20

status of these workers and yet knowing that, these folks still face unconscionable delays. The idea of whether they're supposed to get PUA or UI, it's not an academic question. It has serious consequences for workers and for their lives. Our members found themselves waiting for three or four months to get any benefits. And that delay is baked into the process that has occurred because the companies aren't complying with the UI law, and the DOL isn't making them comply. So, one problem is the delay.

The second problem is the benefit rate itself, is that folks still have not, five months into the pandemic, received the full amount of benefits that they're entitled to. And the problem there is because for when the DOL looks at somebody and says they're self-employed and puts them into PUA, they're getting a lesser benefit rate based on their net income. They're not getting the full rate they're entitled to under the statute from the New York labor law based on their gross income.

So we filed a lawsuit in federal court

and we won a preliminary injunction. And one of the things that that injunction did is it sets forth a time frame for the DOL to pay out the full amount of benefits and still that may not happen for a lot of people until six months after they apply. And we're grateful for that decision. We hope that there will be some justice. But that can't be the way the system works.

And basically this failure is coming from two things in terms of how the DOL is processing these clients. The first thing is that they -- there's this decision on the books, and they simply aren't following it. This decision was won but it changed nothing about how cases were handled going forward. So take the example, of a Postmates worker. There's a Court of Appeals decision saying those Postmates workers are employees.

The DOL's position has essentially been well, we handle every single case on a case-by-basis. So you may win your case at the court of appeals, become unemployed later and then it's a whole new case and they go back to square one.

This creates a delay because the DOL will then ask again, as though they've never heard anything about your job, send questionnaires to you, send questionnaires to the employer, to ask about your job to figure out if you're an employee or not.

The second thing is that they have not used their power to collect wage data from the employers, and this is really the nut of the delay, is you have a decision on the books, you found them to be an employer. That gives you that power to get that wage data. And it's when you get that in your computers that if somebody can apply and get their benefits in two or three weeks.

Yes, there are a lot of delays, there are a lot of problems that we couldn't have foreseen with the pandemic, but there are 40,000 Uber drivers who filed for unemployment, and there is nothing that should have delayed those applications if that data were in the computer.

The DOL is claiming that they don't have the power to get that data. I don't believe that's correct. The New York labor law says you

request data from an employer, and if they don't provide it, that can be a misdemeanor. That seems like a pretty strong power to be able to get thank. If that's not clear, if it's not completely clear and there's room for dissembling around this notion, then perhaps that's an area that's ripe for legislative change in terms of really, really absolutely mandating that reporting, because without it, what workers have to do is submit their own records, and what we're dealing with right now is Uber and Lyft drivers sending in literally 200, 300 pages of earnings data to the DOL, facts, the secured messages, mail because the companies haven't done that.

It puts that burden and extreme time crunch not only on the workers but also on the DOL, who while they're supposed to be handling this unprecedented number of cases, are now dealing with hundreds of pages of wage data simply because they can't force or are unwilling to force the companies to comply with the law.

I know my time is up. I do just want to say, because I think it's very important that

Joint Hearing COVID Impact on Workforce, 8-13-20

while these delays are horrible and they're unconscionable, thankfully folks are getting some benefits. I feel that it's really important to address the needs of undocumented workers, and I want to state our wholehearted support for the Excluded Worker Bailout Act. Folks who are working, contributing to the economy deserve some level of protection right now.

ASSEMBLY MEMBER MCDONALD: Thank you very much, Zubin. We will now move to on to Rafael.

MR. RAFAEL ESPINAL, EXECUTIVE DIRECTOR, FREELANCERS UNION: Good evening, everyone. It's a pleasure, as a former New York State assembly member, it's really an honor to be back and speaking to you all. But I'm really here to talk on behalf of our members. We represent over 500,000 freelancers across the country, over 200,000 that are based here in New York City, and what I'm about to say, I don't think captures what we heard firsthand from the previous two panels.

I think you heard it directly from those

workers of how they've been impacted, how the system was working against their favor, and also how the lawyers and the groups like Legal Services of New York City were working to be able to help those people get back on track.

So I'm here today to really talk about the union and the work we've done until the past few months and ways I think that we can move forward in providing immediate support to ensure that the freelancers have the relief they need.

And the members we represent are an incredibly diverse mix of people. They include domestic workers, drivers, writers, graphic designers, through media workers and night life entertainers who are currently united by a common struggle.And that is they're all out of work and currently trying to find and qualify for any assistance, grants or loans that exist.

At the height of the pandemic, an internal survey that we'd done found that over 80 percent of our members have lost work and over 90 percent expected to lose their sources of income throughout the year. To give a sense of how many

Joint Hearing COVID Impact on Workforce, 8-13-20

freelancers have been negatively impacted and the effect on the state's economy, I would like to note that in a recent study commissioned by the mayor's office [unintelligible] [07:07:19] entertainment and the Freelancer's Union, it found that in New York City alone, 1.3 million residents have performed freelance work in 2019, making up 34 percent of the city's workforce with an estimated annual economic impact of $31.4 billion in earnings.

Freelance workers choose to freelance because they believe it provides them with a greater opportunity for upward mobility and appropriate pay for their skills, compared to tradition a employment. Also allowing full-time workers the opportunity to make a side income, a side hustle, like my parents did, who were SEIU union members and freelanced on the weekends, giving them power over their financial circumstances.

I would like to add that given the number of freelancers in our state and the positives of freelance work for individuals,

Joint Hearing COVID Impact on Workforce, 8-13-20

there is still a great sense in the community that the government has a long way to go in recognizing their importance to our local economy and to the survival of our big cities.

Before the pandemic, freelancers were facing challenges that have led to the crisis that we're in today like the rising cost of health care premiums, the realities of not being paid on time or at all, and the unpredictable nature of their work combined with the lack of a social safety net.

Historically, disasters and economic downturns have shown to be a time in which traditional employees who have been laid off begin to think about how to take control of their finances. They often ponder how can they create their own work with professional skills that they possess. For example, after the 2008 recession, the number of freelancers increased by 12 percent and we expect to see a similar trend once this pandemic is over.

So I mention this to press on the point that now is the time for a comprehensive approach

Joint Hearing COVID Impact on Workforce, 8-13-20

to support the independent workforce. This pandemic has made it clear that in order for our economy to avoid collapse, every worker whether union, independent or undocumented in every sector needs to be supported. With over 80 percent of freelancers reported to be out of work object, it's improbable to ignore the need for creating a larger and permanent social safety net.

Early on, I was proud is to work with Senator Chuck Schumer in reviewing language for PUA and as we know that program was very essential providing independent workers with unemployment insurance and the social safety net they needed to get through this pandemic. But reality is that now the $600 benefits has expired, even though we saw a downward trend of members calling for financial assistance, we're now seeing an uptick again of concern because of the fact they will no longer get that $600 padding that helped them deal with the daily cost of living in our city.

And our most recently inquiry, just to

give you an example came from a single mother of two children, who back in December was proud to get her own apartment but is now months behind on rent and considering living in her car and applying for food and financial assistance to allow her to save money. That is a clear example of why freelancers like every unemployed New Yorker will benefit from real financial relief and support through these times.

So through member feedback, the union has identified a few issues that I believe will have a significant impact in further supporting free lancers through the crisis. PUA and UI has had issues with recognizing mixed earners-- through the crisis. We have freelancers who file with both 1099s and W-2s. What the Department of Labor has doing is only recognizing their W-2s, where freelancers have most likely gotten the least amount of income throughout the year and end up getting the smallest amount of unemployment benefits, of the $182 a week, cheating them over the possibility of getting the $504 award.

Joint Hearing COVID Impact on Workforce, 8-13-20

We've been working with Legal Services of New York City, for example, they've been helping them with the appeal process and then after appealing the Department of Labor came back to recognize their full wages. But I think that the department has to go back retroactively, look at all the applications and make sure that everyone's income was accounted at the end of the day.

The second important piece I think that the state should take on Freelance Isn't Free Act which we passed in New York City. We've heard from a lot of our members who had issues getting paid. They were not getting paid through the pandemic and the pandemic was being as an excuse cheating them out of their wages. If the state implements this, we'll have coverage and better wage protection across the entire state, not only in the five boroughs. The state must also explore extending PUA extra $600 compensation. States like California are looking at the idea that if the federal government is not able to put forward the extra money, of how the state can take that

on.

And, of course, we believe in canceling rent and mortgage payments because people are behind on their rents, on their mortgages and are facing evictions and having to go to shelters.

And last but not least, I just wanted to extend my support for the Fund Excluded Workers campaign. We as a union also represent undocumented and [unintelligible] [07:12:06] members that are in desperate need of support and they have zero lifelines, so it's important that the state looks at how they can get behind the campaign and make sure those workers do not fall through the cracks.

In closing, your support of freelancers is very important. Thank you all and I look forward to working with you all the next few months to ensure that our freelancers are be properly represented moving forward. Thank you.

ASSEMBLY MEMBER MAGNARELLI: Thank Rafael.

MR. SOLEIMANY: My apologies, folks, I am running out of child care in five minutes, so

Joint Hearing COVID Impact on Workforce, 8-13-20

I will need to run, my apologies, unless you have any questions, I'll have to go take care of my little guy.

SENATOR RAMOS: Does anybody have any specific questions for Zubin? Otherwise, I think we're good. Thank you for your testimony and thank you for your work for excluded workers.

MR. SOLEIMANY: All right, thank you, senator.

ASSEMBLY MEMBER MCDONALD: Thank y

Zubin.

SENATOR RAMOS: Talk to you soon. Yeah.

ASSEMBLY MEMBER MCDONALD: Stephan

you're on.

MS. STEPHANIE FREED, WORKER/CO-FOUNDER, EXTENDPUA.ORG: Hello. Thank you for having me here today. My name is Stephanie Freed and I live in Inwood, Manhattan and I am pandemic unemployed. I have been a gainfully employed freelancer behind the scenes the in entertainment and live events industry for ten years and I'm member of IATSE. My industry, which accounts for almost 500,000 jobs in New York State alone, is

Joint Hearing COVID Impact on Workforce, 8-13-20

not likely to return to work until well in 2021. Many of us aren't sure how we survive until then. Personally, now that the $600 benefit has expired I receive a quarter of my usual income in UI, $1,764 a month which is the New York State max. My rent, health insurance and utilities add up to $2,300 a month, so I am losing my apartment.

While I am grateful New York State has provided some rent relief, I and many like me do not qualify. Rent relief needs to be expanded to keep people in their homes. Friends and colleagues are leaving New York City left and right, threatening the entertainment industry's ability to bounce back. In an attempt to make rent, I've been looking for small copywriting projects. The partial UI makes this not feasible. An hour of work for $20 costs me $126 of my UI.

I need to take small projects in addition to UI to even attempt to pay my bills, but with the partial UI rule it's impossible. Desperation around UI is rampant.

So a colleague and I created ExtendPUA.org to provide everyone in need of

Joint Hearing COVID Impact on Workforce, 8-13-20

pandemic assistance with resources to make their demands heard. We're a grassroots organization by unemployed, for the unemployed created in New York. As part of our work, I have heard from thousands of people who are struggling. Here are three stories from New Yorkers.

Donna Reggio is a speech pathologist from Calverton. She has spent 36 years building a private practice for preschool age children, 16 of her 18 students are moving on to kindergarten and the pandemic prevented all evaluations for incoming preschoolers. She has seen her typical work week of 35 to 40 sessions drop to just five. However, due to educational mandates, these three sessions must be spread out over three separate days. Two-and-a-half hours of week in a work eliminates 75 percent of her UI benefits, her benefits dropped to $60. Donna told me could I have no choice looking long range, I'm almost 60 and I cannot find another career.

Richard Heisel has worked as a cook over 12 years at the same restaurant in Rochester. He was furloughed from his job at the beginning of

the pandemic. His wages were effectively replaced by UI and the FPUA. Richard has now gone back to work. His scheduled hours have gone from 60 per week to 20, but spread across four days. This has disqualified Richard from any UI benefits under the partial UI rule, leaving him with one-third of his previous wages. Richard told us he has never struggled like he is now.

Lisa a western New York resident works as a server at a chain restaurant. She's not comfortable returning to work, but did so when asked to five weeks ago, because refusing would kick her off of UI and cost her the job. She's uncomfortable because the precautions seem mainly for the customer's benefit and not the employee's benefit. With restaurants at 50 percent capacity, she last seen her weekly shifts reduced from five to only two. Her UI benefit has shrunk to less than $90 a week. See she now relies on that benefit and nine to ten hours of tips at a 50 percent capacity restaurant to provide for herself and her four-year-old daughter. Lisa told me, I know many service people who this is

affecting way worse than me so I am speaking for them as well.

These are just three of the stories [unintelligible] [07:16:21] Partial UI rules punish exactly what the thousands of unemployed people I have talked to want to do, go back to work whatever way they can and make enough money to survive. I was asked to speak about partial UI but I would be misrepresenting my organization to only speak about that here today.

ExtendPUA.Org represents a large group of unemployment workers. When 12 percent of the state and 20 percent of New York City's workforce is unemployed, we must enact comprehensive response until the pandemic is ended and it is safe for us to go back to work. This includes expansive and inclusive rent and healthcare relief, as well as food assistance. Two million people in New York City alone are estimated to be food insecure because of this pandemic.

A concern I was hearing just yesterday was that even though New York State expanded SNAP benefits, many families were kicked off when they

Joint Hearing COVID Impact on Workforce, 8-13-20

were receiving the $600 and now they are not receiving SNAP or the $600. Rent relief is being offered based on income requirements prior to March 1st, which thankfully helps families who are already at a disadvantage. However, it does not help those who may have been middle income prior to the pandemic. The assumption may be that the middle class doesn't need the assistance. We are actually feeling a different kind of hit, in that we have lost all of our income and our bills remain higher than the max UI coverage and there's no further assistance provided.

We also need to take care of our immigrant community who are left out of UI and pandemic relief completely. We also voice support for Fund Excluded Workers. Lastly, I want to urge the New York State Senate to not take action on with that they can surrounding the issues workers are facing in this pandemic but to also join and help us citizens who are putting pressure on the federal government to pass a comprehensive relief bill with urgency. We need your voices too.

Us unemployed at ExtendPUA.Org would be

Joint Hearing COVID Impact on Workforce, 8-13-20

more than happy to continue to provide voices of unemployed folks for the Senate as necessary. Thank you for allow us to share our stories here today.

ASSEMBLY MEMBER MCDONALD: Stephan thank you, Rafael, thank you. Before I forget, because I should have done this four or five panels ago, our colleague from the Assembly, Yuh-line Niou has joined us as well and we want to thank her, and my mea culpa, because every time I went to do that, I got caught up in the testimony before, so with that we turn it back to you, Senator Ramos.

SENATOR RAMOS: Thank you, John. So I have a few questions. Thank you so much for your testimonies. I'm going to start with you, Raaf. You mentioned in your testimony how you would like to see the Freelance Isn't Free Act implemented at the state level and I don't think many people who are watching at home understand what that means, what that is. Needless to say, that freelancers have been having issues getting paid before the pandemic, when folks, customers

don't necessarily pay their bill or pay it on time in a respectful manner of the person's work.

Can you tell us with that that would look like, and especially I guess you can put your old assembly hat back on, too, and tell us what you envision at the state level.

MR. ESPINAL: Yeah. Well, in New York City, actually when I was on the city council, we passed a bill, and in the bill, the Department of Consumer Affairs and Workers Protection plays a vital role in foreseeing these [unintelligible] [07:19:33] and making sure that freelances who have clients that are not paying at the end of the day end up getting paid for the work that they have performed.

So on the state level, I would just imagine the Department of Labor being that enforcement agency or any similar agency that can play that role and that when they receive a complaint from a freelancer about a contract that they've signed, the client or the company that they have not been paid, that the state will step in and play that enforcement role of making sure

that the client is making that payment on time or just at all in general.

In New York City, there's also a fine attached to it. It's about $250 to $500. If the client doesn't pay within a 30-day period, they can face those fines. Also, if the city finds that there's a huge clusters of problems with this one client or one company, then the city can intervene and play a role in filing a class action lawsuit against that company. And I think it's important because we have seen, through the pandemic multibillion dollars companies like Equinox, for example, writing letters to their freelance workers telling them that they can't be paid for their work because of the pandemic, and it's when you have multibillion dollars companies taking these sort of actions, I think it's clear that there has to be some sort of mechanism in place on a state level to ensure that all workers are protected across New York.

SENATOR RAMOS: Thank you. And now this may go for any of you. We've actually seen, of course, with the pandemic more the proliferation

Joint Hearing COVID Impact on Workforce, 8-13-20

of working from home, and/or working remotely which of course most, if not all freelancers often do. How has the work culture changed, if at all? Are we seeing more work being outsourced to freelancers here in New York? I thought I had heard in California that was the case briefly. And are people falling behind on those payments, on those receipts more often now?

MR. ESPINAL: Yeah, so I mentioned in my testimony that in the previous recession in 2008, there was actually an increase in the amount of people is that decided to freelance, and it increased by 12 percent over the years. We expect the same thing to happen after this pandemic as well. And I think that when you have small businesses and companies that are struggling financially or looking at ways on how they can reboot their business, it makes sense for them and it's easier for them to get someone on a contract to bring their skills onboard to get their companies back up and running, especially after the shutdowns.

So I believe I think New York is going

Joint Hearing COVID Impact on Workforce, 8-13-20

to see a big reliance on the freelance workforce to help jump start the economy, which is why I also mentioned that it's important that now, given this moment, it's important that we look at what laws are being discussed, have been discussed in the past, what sort of benefits can be created moving forward to ensure that freelance workers who we're seeing a larger increase of [unintelligible] [07:23:04] doing, have the protections and social safety net they need to succeed.

SENATOR RAMOS: Thank you. Now, I think we lost Stephanie. I actually had a question for her. But briefly, in the few seconds that are left since PUA does directly affect your membership as well, Rafael, can you talk about why it's so important that we extend it, that we are fighting for these federal benefits, and what kind of a role we should be playing. Oh, there she is, what kind of a role we should be playing here to help.

MR. ESPINAL: I'm sure Stephanie will eloquently answer that question, but, you know,

just freelancers like every other worker, they're out of work, there is limited opportunities, they're spend depending on PUA to give them the funding they need to deal with the cost of living. As I mentioned, once the independent contractors were able to get through DOL, we began to see less phone calls from our members who were in dire financial straits because they were getting a funding stream to help them deal with the cost of living.

And now I think there's again, there's a feeling, there's a lot of anxiety in the air given that the President decided to move forward with an executive order instead of seeing Congress expand and extend PUA, the $600 financial compensation, because there's also a question whether the executive order captures independent contractors moving forward. There's a concern that it's only going to apply to traditional workforce.

So in order to, I think to prevent a huge, a bigger financial crisis, the state has to have a backup plan, a plan B for what we're going

Joint Hearing COVID Impact on Workforce, 8-13-20

to do if the federal government fails to act moving forward.

SENATOR RAMOS: All right. Thank you. I'm out of time. Assemblyman McDonald, do you have anyone?

ASSEMBLY MEMBER MCDONALD: I think w

okay. I think it's Senator Jackson's turn.

SENATOR JACKSON: Well, thank you. Hello, everyone. So hey, co-chairs let me thank you. And I mean, I'm glad that I'm still on this and listening to all of the people that are being impacted. Rafael, thank you, representing the freelance unions and and Stephanie, if you're not aware, I represent you. You live in Inwood. I represent all of Inwood, and I am going to go to the website ExtendPUA.Org and check it out and be in contact with you. But I want to thank all of you.

It's important that we hear from you about the situations that each and every one of you face, and as legislators, I think that we have a mandate, co-chairs, in order to fix the unemployment work situation. So let's get busy.

Joint Hearing COVID Impact on Workforce, 8-13-20

Thank you.

ASSEMBLY MEMBER MCDONALD: Okay. I that's it for our panel. Thank you very much. Rafael, it's good to see you. I know we only overlapped for a year, but once a member, always a member, as you know. And we will move on to our next panel, which is panel number ten. And with us on panel number ten will be only one witness. His name is Richard Winsten with State and Broadway. And we're looking for him to show up. I see him showing up on the big screen right now. Richard.

MR. RICHARD WINSTEN, STATE AND BROADWAY, INC.: Hello, can you hear me?

ASSEMBLY MEMBER MCDONALD: You've g five minutes, go at it.

MR. WINSTEN: Well, thank you very much. Thank you for inviting me to testify. I'm very honored. I'm with the firm of State and Broadway. I bring greetings from my colleagues, Jackie Williams and Larry Sherer. We represent an enormous number of unions from every sector of industry and government in New York State, as

Joint Hearing COVID Impact on Workforce, 8-13-20

also many not-for-profits that are supportive of unions and that support unions as well.

Jumping right in, our clients, union clients and these not-for-profits are extremely concerned, if not terrified about the effects of the collapse of the economy and the collapse of state revenue on their ability to provide service. The first quarter fiscal report came out today, underscores this collapse. We believe that for instance New York City Committee on Occupational Safety and Health, which is the preeminent safety and health organization in New York City and provides crucial advice to unions, workers during this pandemic, their services are needed more than ever.

The Consortium for Education, the preeminent worker training and placement organization in the city, worker training and placement as a result of the pandemic and the collapse and everything, the services are going to be needed more than ever. So we strongly advocate for the federal aid for state and local governments, and we're also a very strong

advocate for increasing state revenue, and there are a number of great proposals for increasing taxes on the wealthy and a broad support from the people I represent.

I'm not going to go into great detail on a lot of the issues that have been covered already by other panelists. One of the issues that all of my clients are concerned about is the workers' comp presumption for COVID. I represent local 237 of the teamsters. All of their 17,000 workers for the city of New York are essential workers, have been on the job. They represent a large number of school safety agents who are peace officers. We've had at least nine deaths from COVID from these peace officers, so workers' comp presumption is very, very important.

I've been observing the comp system since I started lobbying New York State government in 1978. I can tell you it is extremely difficult to win a comp case if the condition is not classified as an occupational disease, which creates a presumption, and COVID has not been added to the list of occupational

Joint Hearing COVID Impact on Workforce, 8-13-20

diseases, so we need the legislation make the presumption. I know Senator Ramos and Assembly Member Simotas have a bill, and we're strongly supportive, and we follow the lead and work with the [unintelligible] [07:29:44] AFL-CIO on this issue.

There's also been a lot of talk about the so-called state HEROES Act. All of my clients, NYCOSH, the unions, all of them believe very, very strongly that we need an airborne pathogen standard that can be enforced. And we believe that the legislature should take a look at creating or mandating the state labor commissioner to create such a standard. The OSHA law federally does not prohibit it and there's federal case law that allows it, and it's time for something to be done on an enforceable standard.

One of my clients is Rural & Migrant Ministries. They represent farm workers. They're extremely concerned about the spread of COVID in very cramped farm worker housing, and we're hoping that working with the legislature, we can

create some protections and some solutions for that.

Another client is a communications worker, Local 1180. They represent city workers. They're concerned that their members are not getting correct information about the interplay between the federal and state paid leave benefits and their city benefits. That's an issue that's a problem. Many of their members have been teleworking from home, very, very effectively. They're concerned that they not be brought back too soon and have their health jeopardized and they would like the union to be more involved when they are brought back, in the conditions under which they are brought back.

Finally, we represent an employer, a small to medium size employer called Carmel Livery Service. This is a livery company based the in Bronx. And when the livery industry collapsed with the shutdown, they kept employees on as long as they could, but they eventually had to lay off 40 percent of their employees. They kept the rest on, hoping that things might get

better. The ones that were kept on were enrolled in the state shared work program, which is run very with very, very well by the State Labor Department and I think there was testimony that I think there are 80,000 some odd workers now enrolled in shared work, which allows a combination of work and wages and unemployment insurance benefits. Carmel was told by somebody on the staff at state labor --

ASSEMBLY MEMBER MCDONALD: Wrap up buddy.

MR. WINSTEN: -- that a laid off worker could not be re-hired and qualify for the shared work program. I think the statute can be read differently, but I would urge you to take a look at this, and if necessary change the statute to allow these workers to be re-hired by an employer like Carmel and participate in shared work. It saves the state money on unemployment insurance, and it allows them to earn a wage plus unemployment that's equal to their pre-pandemic wage.

ASSEMBLY MEMBER MCDONALD: Richard

Joint Hearing COVID Impact on Workforce, 8-13-20

thank you for your testimony. Your time has expired.

MR. WINSTEN: Thank you, I'm done. Thank you very much.

ASSEMBLY MEMBER MCDONALD: And we appreciate the diversity of your representation because it remind us of the diversity of individuals impacted so negatively. Senator, I don't see any questions on the assembly side at this point.

SENATOR RAMOS: We don't seem to have any hands up on our side, either, so I'll also thank Richard for his testimony and for his partnership, because we worked very closely together last year to pass the Farm Worker Fair Labor Practices Act, and obviously we have a lot more work to do to together, so Richard thank you for standing up for a variety of workers today.

MR. WINSTEN: Well, thank you for all the hard work you've done legislatively, thank goodness, during this pandemic in providing service to beleaguered constituents. Thank you very, very much.

Joint Hearing COVID Impact on Workforce, 8-13-20

SENATOR RAMOS: Thank you, Richard. Talk to you soon.

MR. WINSTEN: Thank you.

ASSEMBLY MEMBER MCDONALD: Okay. So up is panel number 11. Senator, well, I've got the list right here, I'll take it, I'm sorry.

SENATOR RAMOS: Okay.

ASSEMBLY MEMBER MCDONALD: Make the New York, we have Deborah Axt, the co-executive director. We have Carlyn Cowen, the chief policy and public affairs officer from the Chinese American Planning Council and from the New Immigrant Community Empowerment organization, we have Diane Moreno who is the program director. So, Deborah, we will start off with you. Go right ahead. Welcome.

MS. DEBORAH AXT, CO-EXECUTIVE DIRECTOR, MAKE THE ROAD NEW YORK: Thank you so much. Thank you to the chairs for convening this critical conversation and to all of you for digging in for so many hours in today's absolutely crucial issues. I'm here testifying on behalf of Make t the Road New York's 25,000 members who are black

and brown community folks living in many of the earliest epicenter communities in this pandemic, Queens, New York City, Long Island and hard hit communities in Westchester in particular.

The work that our members are doing puts them in the position of essential jobs, so folks are dealing with the absolute lack of clear, mandated safeguards. We absolutely call on the legislature to enact the HEROES Act, and those kind of protections. And we have seen that workers who dare speak up and ask for times to sanitize have repeatedly been harassed and even fired to silence them. Some of the most powerful corporations on earth, Amazon in particular, has become notorious for this kind of behavior to shut down workers in standing up for their rights.

And one of the things that we're seeing and is cause for great dismay is that the overburdened Department of Labor is really unable to step in and provide protection. Of course, there's missing standards. And even preexisting protections, like wage theft protections are

Joint Hearing COVID Impact on Workforce, 8-13-20

going substantially almost completely unenforced at this moment in time. And so workers who are facing wage theft, exploitation and danger on the job just have to accept it, especially given the other key issue that I want to talk about, which you have heard many folks mention today, which is the issue of excluded workers.

Make the Road released a report in May called "Excluded in the Epicenter", studying the lives of over 230 black and brown immigrant New Yorkers and our follow-up report following that same population was released earlier this week. And we have discovered horrifying levels of unemployment and income crisis in undocumented communities, and black and brown communities in general, 92 percent of respondents reported that they or another earner in their household had lost their job as a result of the crisis. In May only five percent had received unemployment benefits. There's some improvement in that number among folks who do have the necessary immigration status. But 98 percent of our unemployed, undocumented immigrant survey respondents have

not received a single penny in federal or state economic assistance.

And this is because of what you've heard mentioned time and time out today especially, is that folks, regardless of how many citizen children are in that household, regardless of how many years they've been paying into and having their employers pay into the unemployment system to create that safety net for others, are absolutely blocked from accessing a penny if they lack work authorization. And let's be real, we all know the racist immigration laws that block folks from being able to access work authorization, right.

Or if you are recently incarcerated and are getting out of immigrant detention or out of jail or prison into the pandemic and have virtually no hope of getting employment or if you are an undocumented immigrant who [unintelligible] [07:38:00] a breadwinner spouse and [unintelligible] [07:38:03] sustain the family, though your breadwinner spouse has passed away from COVID.

So the experience of our members has been on the one hand being told you're essential, we need you, we need you delivering the food to our families, we need you staffing the warehouses, we need you cleaning the hospitals, and on the other hand, if they're not able to work or the bottom faults of their part of the economy, you are totally disposable. And folks are I would say growing in the intensity of desperation in their neighborhoods.

It is really hard to convey to people who are not in these communities or not connected on a day-to-day basis. There's now an intense competition to be able to access the recyclables that incredibly poor and homeless folks gather in order to make pennies, and that's growing in intensity. That competition in the streets of Queens is horrific, because folks do not have any source of income.

And we know, thanks to Senator Ramos and Assembly Member De La Rosa, that there is a solution that has been designed for our state, right. We have within reach legislation that

would design a mark-to-market billionaire tax in order to fully fund an excluded worker fund that would give all of the undocumented workers and recently incarcerated folks in need access to an unemployment-like benefit, disaster emergency income replacement at a flat rate, a monthly benefit. It's a simplified version of unemployment, a simplified version to make it administrable. It would be fully funded, even in the first year by the mark-to-market billionaire tax. So there's no reason not to move that forward immediately.

And frankly we cannot wait for Congress to act. I understand we absolutely need federal dollars, and Congress should act and they need to send those federal dollars, but not a single proposal that has any viability at the congressional level would address any of the need that we have for emergency income to these families who are excluded from unemployment and other stimulus benefits at the federal level.

So we need to ask you all to act now. We cannot wait for a governor. We cannot wait for

Joint Hearing COVID Impact on Workforce, 8-13-20

Congress. We need to move forward. The income crisis is growing. The desperation and the need is growing. This is a humanitarian disaster that we cannot allow to happen on our watch. Thank you all so much for all of your work. I know how hard you're working around the clock, and we really appreciate your support.

ASSEMBLY MEMBER MCDONALD: Thank you Deborah. Carlyn.

MS. CARLYN COWEN, CHIEF POLICY AND PUBLIC AFFAIRS OFFICER, CHINESE-AMERICAN PLANNING COUNCIL: Carlyn.

ASSEMBLY MEMBER MCDONALD: Carlyn, I sorry. Welcome aboard.

MS. COWEN: That's okay. It's a difficult name. Good evening and thank you so much for the opportunity to testify tonight. My name is Carlyn Cowen. My pronouns are they/them or she/her and I'm the chief policy and public affairs officer of the Chinese-American Planning Council, CPC. CPC is the nation's largest Asian-American social services agency serving 60,000 Asian-American, immigrant and low-income New

Yorkers throughout all five boroughs as well as some in Long Island and Westchester.

During the pandemic, CPC has been working with our community members from all over facing all sorts of issues, and I want to uplift a lot of the issues that we've heard in today's hearing, but also share what we've been seeing with our communities.

I want to talk about two different types of workers today. Our frontline human services workers who are essential and our excluded workers, who are often also essential. Human services workers are at the frontline of the pandemic. We have been delivering food and medications. We have been helping people navigate unemployment and rent and avoiding eviction. We have been helping young people navigate remote learning and providing home care to people in their homes.

Yet at the same time these essential human services workers deemed essential by the state and paid for through state contracts and state funding, have been facing a complete lack

Joint Hearing COVID Impact on Workforce, 8-13-20

of person protective equipment and the supplies that we need to do our work safely. At CPC, we employed over 5,000 staff and have had to resort over the last several months, of seeking donations for masks and sanitizer and trying to cobble together to keep our staff safe as they interact with our community members and support our community members.

At the same time, these workers are often paid minimum wage, and human services workers are by vast majority women, women of color and immigrant workers. And so we are being put at the frontlines and being told that we have to do this work for minimum wage.

And at the same time as our services are increasing, we're seeing huge -- the demand for our services is increasing, we're seeing huge cuts to our services through state programs and we're being forced to lay off workers, then who are facing their own challenges with unemployment.

That brings me to the other category of workers, which as we've just had to lay off 100

Joint Hearing COVID Impact on Workforce, 8-13-20

staff at CPC alone, workers that are being excluded from our economy and from state support. All of the stories that you've heard today are stories that we have heard from our community members or our staff. And we're seeing the communities of color are by far being hit the hardest. In the Asian-American community, unemployment rose 6,900 percent over April, and we know that that traces back partially to early discrimination faced within the Asian-American community causing massive job loss. But communities of color across the board are being hit hard.

In our own community at CPC, 50 percent have our community members have lost jobs or income and report not knowing how they're going pay for rent, groceries or medication. In one of or preschool families, 24 children in 24 families in a four week span, 20 of those families lost their jobs and income and less than half them qualified for any sort of federal or state aid. They are now going on month five of being completely left out by the state and federal

government.

We have community members that cannot afford rent, cannot afford food, cannot afford medication. We have young people that are rationing food for their family members while their parents are out seeking whatever work they can. And we have had young people sharing suicidal thoughts with our staff because they don't know how their families are going to afford to eat or how they're going to afford to bury their parents who have died from COVID-19.

I recently testified at the hearing of disproportionate impact of COVID-19 on communities of color in April, and we shared a number of recommendations there, and I'm sad to say that the recommendations that I'm going to share today are the exact same because we haven't seen a lot of these changes happening yet.

We still have community members that are waiting for state aid and now have months of rent and other expenses piling up. We need to establish an excluded workers fund, we need to ensure hazard pay and wages for our frontline

Joint Hearing COVID Impact on Workforce, 8-13-20

workers that are just struggling to get by and finding extra jobs where they can. All of the things that we've heard mentioned today are urgently needed and were urgently needed in March for our workers.

But it doesn't just stop there because we have to look more, broadly housing. We have to cancel rent and mortgages and support our small businesses that struggling. Healthcare, protecting Medicaid and passing the New York Health Act, because yes, healthcare pertains to the workforce during mass unemployment where so many of our community members are losing health care. And most importantly, raising revenues and making sure that the billionaires that have earned billions and billions of dollars during this pandemic are not getting away with this while our community members are the ones that are suffering.

Thank you so much for the opportunity to testify today, and I'm happy to answer any questions you might have.

ASSEMBLY MEMBER MCDONALD: Thank you

Joint Hearing COVID Impact on Workforce, 8-13-20

And finally, Diana, Diana Moreno, welcome.

MS. DIANA MORENO, PROGRAMS DIRECTOR, NEW IMMIGRANT COMMUNITY EMPOWERMENT: Thank you so much for having me. Hi, my name is Diana Moreno. I am the program director at New Immigrant Community Empowerment and I would really like to thank Senator Ramos and everybody present for giving us the opportunity to represent some of the workers who have long been excluded from our economy, from the benefits even though they pay taxes into our system and especially now during the pandemic have been some of the hardest hit, not just in a health crisis but in an economic crisis that has left many of them homeless and struggling to put food on the table.

As one of the strange silver linings of this, of this pandemic, has been actually to expand our work and our reach of New Immigrant Community Empowerment from a place that was centered in central Queens, which as Senator Ramos very well knew, was at the center of the epidemic back in March and April, two, actually opening up two more centers in Brooklyn and in

the Bronx because we saw the need of the community for disaster relief.

We became from an immigrant rights and worker centered organization focused on helping educate folks around their rights, helping educate folks around safety and health training, to a disaster relief organization helping people put food on the table, and we continue to do that to this day.

Unfortunately, our center has also really -- we have been witness to those advancing needs of a population that was already on the edge long before this pandemic. These are day laborers that every single day have to go out to a street corner to look for work and they might be in the most precarious conditions to be able to maybe be offered, to get into a van for maybe what's $80 a day for a hard day's work, that they may or may not get at the end of the day.

These are workers who face really high incidents of injury and death on the job, including two workers that we've recently mourned at a rally a couple of weeks ago, which Senator

Joint Hearing COVID Impact on Workforce, 8-13-20

Ramos attended, two workers that died due to unsafe conditions, one in Queens and one in Manhattan, both of them immigrant Latinos, who again due to the lack of regulations and the lack of employer oversights that care more about profit than human life are no longer with us.

Unfortunately, this population also has faced some of the worst outcomes as far as the illness rates, contagion rates and the death rates of this particular pandemic, which made us do, as a staff at New Immigrant Community Empowerment do something that we never thought we would be doing, which is reaching out to consulates from Latin America to help people repatriate bodies, repatriate remains. This is something that has truly changed our organization from within, and I really hope that the stories of our members reach you all, to understand that the safety net was no longer there, and this particular population that was already on the edge of the cliff has fallen off the cliff. And we need immediate emergency assistance in order to the ever growing generational issues that are

going to happen if we do nothing for these workers.

One of the those issues is, of course, even the mental health crisis that is tied to this, to this overall health crisis in which we see when we survey our members, that 15 to 20 percent are having deep depression, anxiety, and even suicidal ideation, as was mentioned by one of our former colleagues.

Something else that we really care deeply about is the fact that as unemployment has grown within this sector, other of our members who may have worked in restaurants, who may have worked in salons, who may have worked cleaning homes, et cetera, they are out of work while most of our members who work in construction are just starting to enter back into the economy.

However, that labor pool of unemployed people that are now trying to enter into construction, what that creates is a really unfortunate, exploitive conditions, in which people were unfortunately take the lowest wage that they can get, they will not ask questions.

Joint Hearing COVID Impact on Workforce, 8-13-20

If there is no social distancing say, or no PPE, they will go with it because they need the money.

And without those federal regulations -- excuse me, those state regulations and those strong laws that present of these sorts of exploitations from happening, our communities are going to continue to be injured and to die on the job.

I'm here in support of an essential workers bailout. I'm here in support of Carlos' Law which would allow for workers to actually be safe and secure and for the fine for their deaths to be more than $10,000, which is the current fine ever whenever an employer is found negligent of a dying worker, and I'm here in support of the SWEAT bill which would allow for our workers to ensure that they have a recourse against wage theft. I really appreciate your time. Thank you so much.

SENATOR RAMOS: Well, thank you guys so much. I have to say that working with all of you throughout all of this has been quite an experience, and I'm sorry that I'm getting

emotional. The truth is that we all know that what we're seeing on our streets is very hard, that there really is a population here in New York that is much worse off than many, than most in our state. And thanks again for working with me, especially on the excluded workers bill, to make sure that we're providing them with some compensation as the taxpayers that undocumented people are, oftentimes paying more taxes than billionaires themselves in this state.

Can Deb perhaps and Carlyn and Diana can chime in at any point. Can we talk about how it is that people are surviving? They can't work, right. If they worked in restaurants in Midtown, those closed. They don't qualify for unemployment benefits. They don't qualify for PUA or anything like that. How are people feeding their families and making rent and paying for their needs?

MS. AXT: I mean, in our membership, it varies. The answer is they're not. They're obviously barely surviving, people are waiting in incredibly long lines to get food. It is possible to access some kind of food, but it's not enough.

It's certainly not enough for substantial families. There's no way to get diapers. There's no way to get clothing for your kids, much less enable your children to be remote learning for school. People have managed to get small sums of money from organizations like ours and others that are testifying here, who have scraped together money from donors and foundations. And, of course, there was a city fund that did give out some funds, right, a few hundred dollars to help with food. It's to help with basic survival.

But as soon as the moratorium is lifted, okay, people's debts are building up and the landlords are starting to harass more and more, and have already convinced many people to give up on their homes. And as soon as the moratorium is lifted, people will be facing massive debt that there's no way to get out from under.

SENATOR RAMOS: Diana, can you add? I know you guys also put together a pantry like Make the Road and like our office and so many other places where we've had to step up in that way.

Joint Hearing COVID Impact on Workforce, 8-13-20

MS. MORENO: Yeah. So, this kind of goes back to a point that I touched on during my testimony which is that folks are finding what they can, and that means that there's people that are switching industries, that means that there are people that are working for less, that means that there are people that are working six hours a week if we can, right, and obviously that's not enough to meet the needs of a family, [unintelligible] [07:54:52] does not meet the needs of even an individual, which is why we have a lot of stories from members who have gone through, you know, the unemployment un week one in March to not being able to pay rent to now living in a shelter.

And these are the same numbers that are showing up three times a week to volunteer with our organization to provide food for others. And so it is incredibly heartening and inspiring for me to be able to share their stories with you. However, it is my duty to really communicate the dire situation in which they find themselves because it is through community organizations

like ours, like Make the Road and through offices like Senator Ramos and others that folks are able to eat, however, we know that this is going to take a long -- this is going to be a long recovery ad how sustainable is it for folks who depend on any sort of services?

SENATOR RAMOS: I want to squeeze in one question, which is kind of a non-sequitur for Carlyn, only because I know CPC is such a big umbrella organization and I think among them is APA, right, which is in my district?

MS. COWEN: We work closely.

SENATOR RAMOS: You work closely. It's kind of a switch in topics, but we've seen a lot of small businesses also be hurt by SLA fines as of late, particularly in the Asian and Latinx communities which, of course, oftentimes are the bigger employers for our people, right. Can you tell us a little bit -- are you guys working at all in that, with that issue? Have you been?

MS. COWEN: We've had a lot of community members that have had this issue, and I think that it's one of many issues that our small

businesses are facing, and I think that particularly for immigrant run and limited English proficient small business owners, they are facing so many burdens right now because they have been left out of the PPP program, while I think someone said earlier organizations like shake shack get it, they are trying to navigate ever changing guidance, fines, guidelines, updates, from a bunch of different city and state agencies, all in language that is not their home language. And then they're being faced with increasing fines and having to put out costs just to get by that they don't have the money for. And so it's been a huge problem. We're seeing businesses close. It means that more families are going hungry.

SENATOR RAMOS: All right. Well, thank you. And thank you, I know Diana brought up mental health, which is a huge issue. I mean we're going through a collective traumatic moment, but it only adds onto, you know, the rhetoric and the hate that's coming from the White House and unfortunately this is an issue

Joint Hearing COVID Impact on Workforce, 8-13-20

that I think we need to start talking more about is our mental health during and as a result of this pandemic. I'm out of time, so I'll pass it on to the Assembly.

ASSEMBLY MEMBER MCDONALD: Thank you senator and thank you to the panelists as well. First up from the assembly will be our co-chair of banking, Tom Abinanti.

ASSEMBLY MEMBER ABINANTI: I want to thank you all. I want to thank you all for giving us a picture of what's really going on, on the street. And it is sad that so many people are hurting so badly. I want to go off on one issue, though, and I'm particularly choosing this group because you guys, particularly Make the Road have been a leader in proposing some things that I think really need to be detailed, and if not on this call, offline.

I want to understand the proposal for cancellation rent. It's very easy to say that, and we understand why so many people need help, but once you get away from New York City with the big landlords and maybe not even having to leave

New York City, you find that a lot of the landlords are people who own a two or three family building. Many of them are immigrants who have scraped together a little bit of money, you know, buy a three-family house. They live in it. Their kids live in it with them. And then the kids get married and move out and so they rent the apartment. And so an across the board no rent doesn't work.

How do we fashion something that actually helps the tenants and doesn't unintentionally hurt so many of the people who really need that income because that's what they're using to get by. They may have a store down on the first floor and they may be the store that's being closed that you're talking about, and now they need the rent from the other apartment just to pay the mortgage or just to buy food themselves. How do we fashion this? Is there a proposal out there that somehow makes all this work?

MS. AXT: There are a number of proposals, and I'm happy had to follow up on all

of the details, but we are certainly not proposing a mandate that just says landlords cannot charge rent, right. That is absolutely not acceptable and not the way that we should be going about this. We absolutely agree. And a huge risk here frankly, is that the same thing we're seeing with the death of Main Street, which we certainly hope will not be permanent, right, it could happen in housing as well, right. We don't need to see immigrant and other small homeowners and small business owners be put out of business while giant corporations and private equities swoop in to profiteer off of the ruins.

So our approach on canceling rent and our approach on funding excluded workers is really fundamentally the same. On one day two weeks ago Jeff Bezos made $13 billion. On that one day, he made more money than he and his grandchildren and great-grandchildren could ever hope to earn. It is disgusting. We live in a state that says that is okay while our members are going without a single penny to live on, while our members, who are working in his

Joint Hearing COVID Impact on Workforce, 8-13-20

warehouses and our members who are bicycling food to us 13 and 14 hours a day with just plastic bags covering their hands and home-fashioned masks to protect them, that is disgusting! We cannot say that this is the state we want to live in. So it's all about recapturing that wealth.

ASSEMBLY MEMBER ABINANTI: I would disagree with you. Why are we not talking about increasing the minimum wage? I have never heard anybody talk about that.

MS. AXT: I mean, that should absolutely be a part of all of this, right. Unfortunately, the 65 percent of our members who are still unemployed, like that's not going to be an immediate solution, so we're definitely in crisis intention mode, of course, in terms of re-stabilizing our communities and allowing people to survive the next few months. But definitely, we're with you on all of those broader solutions.

ASSEMBLY MEMBER ABINANTI: Okay. I in order to having the conversation, because I don't want to do more damage to the people who need help by, like you said, just canceling the

rent. I really want to have this conversation because if we're going to move forward, we've got to come up with a solution that works for everybody.

MS. AXT: Definitely. I'll send you follow-up info [unintelligible] [08:02:29].

ASSEMBLY MEMBER ABINANTI: [unintelligible] [08:02:28] what needs to be portrayed in this hearing. Thank you very much.

ASSEMBLY MEMBER MCDONALD: Okay, bac the Senate.

SENATOR RAMOS: Up next we have Senator Jackson.

SENATOR JACKSON: Hi, everyone. First let me thank the three of you for coming in and obviously I'm just listening to your detailed situation that our people are in, and it's devastating. The one thing really caught me is Carlyn, when you said the percentage was 800 and what, 80 or something like that?

MS. COWAN: For the unemployment increase?

SENATOR JACKSON: Yeah.

MS. COWAN: 900 percent increase in a month.

SENATOR JACKSON: Oh, my God. I mean, 900 percent. It's just insane to even think about, that people are, you know, being laid off and struggling, and in fact I was being at one hearing and they were talking about the food distribution lines and how many meals are given out in Chinatown area, over 10,000 per day or something like that. And I mean compared to, you know, like 1,000. It's just unimaginable that we're in such dire situations, and that's why we have to take corrective action ourselves if the federal government is not going to do it.

We just have to. I mean, and in anyone if anyone does believe the situation, they should hear all three of your testimonies and then they will know. And if they can't feel that in their heart, let me tell you, if they can't feel that in their heart, something's wrong. And those are the individuals that we must gets out of office, because they basically have I guess a brick wall in front of them that can't see it, can't hear

it, and can't feel it.

And I'm glad that I was able to stay for the entire duration and to hear all of what you had to say, and obviously Jessica and some of us, as you know, we did a fast for 24 hours and we slept on the sidewalk, but that's no comparison to the people that are struggling, struggling every day just to try to make ends meet, to have a decent meal. But let me thank you. You're doing God's work on behalf of the people of our great city and state. Thank you.

ASSEMBLY MEMBER MCDONALD: Thank you senator. From the Assembly we will go to my colleague, Yuh-Line Niou.

ASSEMBLY MEMBER YUH-LINE NIOU: Sorry about popping on and off. I couldn't figure it out for a second. But I just wanted to say thank you to everyone for testifying and, Deb, I know that workers here in Chinatown too, our [unintelligible] [08:05:48] workers are exactly the same situation that you're describing, and I just want to say thank you for your testimony.

And I also wanted to thank our chairs

Joint Hearing COVID Impact on Workforce, 8-13-20

today because they're asking all the right questions, and so many moments where I was like, I need to ask this, and they asked it already.

So I just want to touch on a couple of things today. I know that you were just talking, so Chair Abinanti has mentioned minimum wage increases, and then Carlyn you had talked about how 900 percent increase in unemployment. I mean minimum wage increases are great, but if you don't have a job, you know, the wages aren't going to be there and it won't help and that's why we need to talk about canceling rent and we need to talk about all of these things.

But I just wanted to say that the state made huge cuts to our social services. And I wanted to ask you what are some of the impacts to the workers, to our social workers, et cetera, to folks who are in our 501(C)3s who are actually doing the actual footwork. And then on the flip side what is happening to folks on the ground due to these cuts? Like what is happening to the folks that you're working with?

MS. COWAN: Yeah. So just quickly, the

Joint Hearing COVID Impact on Workforce, 8-13-20

stat about Asian-American unemployment increase is actually 6,900 percent. Like that is the scale of the crisis that we are talking about. And that's why yes, like we do need to increase minimum wage. We needed to continue increasing minimum wage for a long time, but that's not going to be nearly enough when people that are earning minimum wage are months behind on bills and many, many more people are unemployed.

We need to stop talking about handling this crisis in this measure or that measure. It needs to be this and that and that. It needs to be increasing the minimum wage and an excluded workers fund and canceling rent and mortgages and supporting small landlords and the New York Health Act and all of these other things, because otherwise we are just going to be stuck in perpetual relief and we're never actually going to get to the recovery phase of this crisis.

People are struggling too much and we are in too deep, and we see that in the social services sector every day. We deliver over 1,000 meals a day, and on top that of we distributed

over 100,000 pounds of food, and people are still going hungry every day. We are helping people try to avoid eviction. We're helping people figure out school and jobs and benefits and try to keep people from getting deported, and all of this is happening at the same time as like cuts are happening to our programs.

And our contracts don't fort PPE or supplies, our contracts aren't flexible enough to actually manage a crisis. They are so rigid that we have to figure out how to manage a crisis around them. And what this means is like staff are spending time instead of meeting people's material needs, trying to get PPE, trying to get it to be allowable within their contract, and we're also losing staff. And if that continues happening, not only is the scale of this crisis going to grow, as more and more social service workers end up in the unemployed pool, but we're also not going to have the community-based organizations that have been at the frontlines of this crisis the whole time because we're not going to be able to make it through.

Joint Hearing COVID Impact on Workforce, 8-13-20

ASSEMBLY MEMBER MCDONALD: All righ
good.

ASSEMBLY MEMBER NIOU: Thank you so much, Carlyn.

MS. MORENO: If I could just add to that very quickly. We just had this fight in New York City, right. Like we had to march and demand and ask that these frontline organizations that are the only ones that are able to reach invisiblized populations that are very difficult to, you know, due to language barriers, due to not understanding the system, [unintelligible] [08:09:32], that we stayed alive and afloat, right. We have to fight for our own existence in order to fight for the lives of our members.

And that is such an unfortunate and ironic twist considering the high needs of our members in this moment. And that's something that I would like to just spend my day serving our members and helping them thrive, not just survive and because there's a reason why even prior to the pandemic, this population was on the edge.

As undocumented workers in an anti-

immigrant, incredibly anti-immigrant political climate, with a healthcare system that does not meet most of their needs. There is layer upon layer. I just want to reiterate what Carlyn said in terms of like the solution, the actual recovery is not just one policy, right.

I do believe that an excluded workers fund is a fantastic way to start because it will address that inequity, that generational inequity of billionnaires who pay no taxes to a population that is barely surviving that pays taxes into the system and is [unintelligible] [08:10:50] --

ASSEMBLY MEMBER MCDONALD: Thank you Diana, thank you very much Yuh-Line. Thank you, as well.

ASSEMBLY MEMBER NIOU: Well, thank you and I want --

ASSEMBLY MEMBER MCDONALD: Senator, back, back to you.

SENATOR RAMOS: Thank you. Up next, we have state Senator Gustavo Rivera, who we haven't heard from today.

SENATOR GUSTAVO RIVERA: Although I'v

been in meetings up and down.

SENATOR RAMOS: You have, you have.

SENATOR RIVERA: But I've been here for most of the thing.

ASSEMBLY MEMBER MCDONALD: Yes, you have.

SENATOR RIVERA: A quick thing, it is very important, I'm very disappointed that -- I'm thankful for the assembly members in the minority who are still here. Thank you. I'm quite disappointed that there are no minority members from the Senate right now here. I'm not going to -- you've already been thanked enough. I'm going to do something different. I'm not going to devil's advocate. I'm going to play the devil. Any of you. We can't -- you're talking about taxing -- we can't tax our way out of this, right. Does anybody have a response? We can't tax our way out of this.

MS. AXT: That's completely ridiculous, of course.

SENATOR RIVERA: What do you mean?

MS. AXT: Austerity politics have

already decimated the Department of Labor that's now supposed to be supporting unemployed workers across the board. It's already decimated our enforcement to support our workers in low wage jobs who are being exploited, even before COVID, right. So we have basically decimated the support systems that we now need and that are not available to us.

And now we're allowing the argument that they're going to be cut further so our folks cannot survive. The amassing of wealth, this idea that billionaires will somehow --

SENATOR RIVERA: But they'll leave. They'll leave!

MS. AXT: I recommend that everyone go look at the little things on the internet that demonstrate how much a billion dollars really is. Taxing billionaires' increase in wealth by eight percent, right, which is what Senator Ramos and Assembly Member De La Rosa's tax would do, eight percent on just the gains in wealth based on their assets, right, they won't even feel it.

SENATOR RIVERA: But they'll leave. I

mean they've left before. Won't they leave? Okay. You know what? Moving on, moving on. You're talking about other places.

MS. AXT: Right, The evidence is that they don't leave. The evidence is that they don't leave. They won't even feel this.

SENATOR RIVERA: Let's move on, let's move on. Listen. This housing thing, you're talking about the housing. That's problem solved. Didn't we solve that problem? We, it's an executive order. It's solved, right? It's solved. Oh, so it's solved? Nobody wants to respond to that?

MS. AXT: The which issue?

SENATOR RIVERA: The housing issue. There is an executive order which actually makes sure that you can't get evicted, so the problem is solved, right?

MS. MORENO: I would point to the gap between law and enforcement, and I would point to the fact that many folks, especially in New York City, that participate in underground economy because they are undocumented because they're in

an informal work situation, they're also participating in an informal living situation in which they don't know their rights, they don't understand how those laws apply to them and if they do. So, whether our governor has an executive order, that makes no difference in their lived reality. That makes no difference in the fact that they're out of their home and all their stuff is sitting outside of their home and their stuff is lost, right.

SENATOR RIVERA: Devil mask off. Cancel rent. Tax billionaires, tax millionaires. Let's do this. They're not going to leave, they're not go anywhere. Let's do this. We can't tax our with a out of it? How about we lessen the blow on the people that are really hurting right now, it's completely crazy and ridiculous. Governor Cuomo, it is you, sir. You got your people watching still? It is you, sir. You are getting people to kicked out of their homes. You are making sure that billionaires and millionaires are treated completely different than the people who these folks represent. Shame on you, sir. Devil mask

on. Oh, but they'll leave. I'm done.

ASSEMBLY MEMBER MCDONALD: Thank you senator. And we will move on. A little bit more passion next time would be appreciated. If we can move on to our colleague Assembly Member Carmen De La Rosa who will be finishing out the Assembly's comments this evening.

ASSEMBLY MEMBER DE LA ROSA: It's hard to follow Gustavo Rivera and his devil and saints masks but I will do my best. First of all, I want to thank the panel for your testimony. We've been working really, really hard to bring to light the narratives of the people that you all work every single day to represent. And I just want us to, for our colleagues who may be watching, who do not share a part New York City, but have a vested interest in ensuring that the solutions that we're proposing here understand that it benefits the constituencies that they also represent. Can we talk a little bit about the tax and the solutions that have been presented and how they will help those constituents who live outside of New York City as

well?

And I also want to dig a little deeper into the impact, as it has been felt by the families that you represent. What percentage of the families that you represent have lost loved ones in this time, and what does that mean for access to healthcare? What does that mean for staying in their homes? What does that mean as families get ready to go back to school? How can we kind of put all of this in a context where people understand that New York State has the ability and the authority to get this done, and why this is a critical moment for us to do it.

MS. COWAN: I mean, I think the key thing here is that this is a statewide issue and, yes, it looks different downstate than upstate, but New Yorkers across the state are facing the same problems of mass unemployment, lack of healthcare and inability to meet basics needs. And we actually saw that the first city that has made any moves towards anything like cancelling rent is Utica, an upstate city, because they were seeing the urgent needs of their community

members.

And so this isn't just something that's a downstate issue. It's something that we see that is completely across the board, and we know that New York has the ability to do things like raise revenue. There's so many bill that are already existing that with literally the flick of a pen, we could completely change how we are handling this crisis from just kind of creating little band-aids here and there when like what we really need to be doing is actually dealing with this like the gigantic flood it is and is going to continue being as measures like the eviction moratorium expire.

As we're facing the end of that, as we're facing going back to school, as we're facing into the winter, this crisis is only going to grow and the measures that New York State already has that we just have to pass are the things that are actually going to begin to address this.

MS. AXT: Yeah, I would just add a quick glance at a little bit of data. The fiscal policy

institute did a geographic breakdown of the exploited worker bailout fund and where it would impact different regions. And like $380 million in investment would go to Long Island, $450 million to Hudson Valley, $260 million to northern and western New York, so it's definitely not just a New York City issue, right, and those are obviously the concentration of folks who are excluded from these benefits are also creating real crises and economic crises for the communities in all of those geographies. That needs to be addressed as well as the humanitarian aspect, of course, that we've been talking about.

ASSEMBLY MEMBER MCDONALD: Well, tha

concludes our commentary for this panel. I just want to take a moment of personal privilege as well. Many of you know I'm an upstate member. So these issues are in our area, but they're not as predominant as they are in the city. But I have to tell you, listening to your passion, to your comments, it reinforces why we need to work collectively to put some changes into effect. At the end of the day, regardless of what your

Joint Hearing COVID Impact on Workforce, 8-13-20

thoughts are, when people are being treated unfairly, we need to level the playing field, plain and simple. So, thank you I sound like Dick Gottfried the other night. Here we are into our tenth hour of testimony and the best is just starting right towards the end. And senator, I turn over the next panel to you.

SENATOR RAMOS: Actually --

ASSEMBLY MEMBER MCDONALD: Oh, I'm sorry. Senate.

SENATOR RAMOS: Sorry, yes, we have one more questioner, and that is state Senator James Skoufis.

SENATOR SKOUFIS: Thank you. And I apologize for jumping in here at the end and keeping you. But thanks for your testimony. I do want to echo a little bit of what John McDonald just said and that is those are outside the city, certainly we hear this perspective but I think not nearly as much as some of our colleagues in the five boroughs, and to hear it amplified by all of you I think is valuable for us outside of New York City. So I do appreciate it.

Joint Hearing COVID Impact on Workforce, 8-13-20

Certainly you talked a lot about issues and proposals that are pending that are in the legislature. One of the most imminent of which is this issue of revenue, I'll say as a marginal member, I support raising revenue from those who can afford to sacrifice, as many others have including those families that you represent.

But I do want to hone in a little bit, Deborah, on something you opened with and something you touched on again maybe just in the last or second to last set of questions, and that is that we could talk about these things that are pending but there are some issues right now that the Department of Labor and others can help you all with without us passing any legislation, right.

And that is it sounds like there is a significant issue with, for example, lack of enforcement of wage theft. You mentioned that, and I think one or two other items that, quite frankly, it requires no new legislation, nothing new from the governor, no new directives. That is law as we speak on August 13th.

And so I guess if you can hone in a little bit on let's say, for example, that wage theft issue, is the enforcement worse than it was pre-pandemic or has it always been this bad and I it's sort of status quo and par for the course? I would like to offer to you as chair of investigations my office and I, however we can be helpful, but something that again doesn't require legislative action like this, if I can get endangered and be supportive and perhaps push DOL, whether it's in my district or statewide or whatever it might be, I really hate to hear something like that happen. So if you can elaborate a little bit, please.

MS. AXT: Thank you so much. That's a really important question. The answer is the Department of Labor, before COVID needed to quadruple its size to get back to the 1960s staffing capacity that it had, right. So it has basically been decimated in its ability to enforce labor law over the course of recent decade. As a result, the DOL for many years now doesn't even attempt to investigate the full six

years of back wages that workers who have their wages stolen are entitled to. It only tries to investigate three years. So that's just one example of the ways that they have just kind of thrown up their hands. And I think it's largely because of staffing and an unwillingness by this administration to be honest about the fact that there's not really an intention to enforce our workers rights laws.

It has, I would say wage theft enforcement from what I can understand from our attorneys, and we usually are handling several hundred wage theft cases at any point in time, has come to a screeching halt, so cases are not moving at all at this moment.

SENATOR SKOUFIS: So it's worse now than it was six months ago?

MS. AXT: Yes.

SENATOR SKOUFIS: To be clear. Okay, got it. I'd love to continue this offline if you're interested.

MS. AXT: Yes, absolutely.

SENATOR RAMOS: If I may, I'd like to

add, Senator Skoufis, that this is why we recently passed the SWEAT bill.

SENATOR SKOUFIS: Oh, I'm well aware, yeah.

SENATOR RAMOS: Yeah, you may recall that the governor vetoed it last year, but the attorney general's office today came out in support of during their testimony so we're hoping that it gets signed this year. I mean it would actually -- and people don't realize this -- it would actually hopefully solve the issue that we have where wage theft happens in New York tote tune of $1 billion every year, according to the U.S. Department of labor.

SENATOR SKOUFIS: Yeah, Deborah and whoever else, if you want to reach out and perhaps with some ideas where we can collaborate again if you're interested, I'll look out for that, thanks.

MS. AXK: Well we thank you, senator.

SENATOR RAMOS: I can reach out with a bucket slip for my excluded workers bill, James. All right. Assemblyman McDonald, do we have the

Joint Hearing COVID Impact on Workforce, 8-13-20

next panel?

ASSEMBLY MEMBER MCDONALD: We do hav

the next panel. This will be panel number 12. And joining us tonight will be Charlene Obernauer, the executive director of NYCOSH, Rebecca Miller who is deputy legislative and political director for CWA, and Maritza Silva Farrell, the executive director of Alliance for a Greater New York, ALIGN as they call it. So Charlene, you'll be first, Rebecca you'll be second, and Maritza, you'll be third.

MS. CHARLENE OBERNAUER, EXECUTIVE DIRECTOR, NEW YORK COMMITTEE FOR OCCUPATIONAL SAFETY AND HEALTH: Great. Can you all hear me?

ASSEMBLY MEMBER MCDONALD: Go ahead,

Charlene. We're good to go.

MS. OBERNAUER: Okay. Great. So thanks to everyone, to our senators and assembly members and, of course, to our chairs for truly listening to every testimony today. I've been listening to and it's been amazing to hear how many questions and how engaged everyone is, especially as we get into the 7:00 o'clock hour, so thank you so much.

Joint Hearing COVID Impact on Workforce, 8-13-20

Today in New York State, as many other people have testified, workers are in crisis. Workers are facing record numbers of unemployment and workers are facing unprecedented health and safety risks on the job. Essential workers have been exposed to COVID-19 hazards since the crisis emerged in New York State and many have gotten sick. And the exact number, we don't really know because there's not really tracking on this data. But some workers have not quite chosen to go back to work but gone to work out of necessity because they don't really have any other choice. And in doing so, they're exposing themselves and their families to health hazards.

And one of the questions that came up, and as I said I've been listening all day as well, is about the question of OSHA and whether or not OSHA is effective enough to be able to deal with the safety and health problems that workers are facing on the job. And from our perspective, the agency is asleep at the wheel. They've issued guidance but there's no enforceable standards whatsoever.

And the standards that they do have not related to COVID but their already existing standards, they're also not enforcing and they're not doing inspections. I was disappointed to see that OSHA was not on the panel of speakers today because I think it would be really important to hear from them and to hear how they are approaching inspection in New York State. And so I'm going to give a couple of examples of why I have issues with OSHA's enforcement. So, for example, OSHA's inspection rate was higher before coronavirus was declares a national emergency, so the number of OSHA citations fell by over 17,000 between January 1, and May 22, 2020 when we compared it to the same period in 2019.

And even though OSHA's investigators are decreasing, workers complaints continue to rise. For example, and this isn't a New York State example, but it's an example of what's happening all over the country. This was from a local news report that I pulled when I was writing this testimony, on April 1st, a worker at Maid-Rite Specialty Food meat packing plant in Dunmore,

Joint Hearing COVID Impact on Workforce, 8-13-20

Pennsylvania filed a complaint with OSHA and the worker listed a number of COVID-related safety issues and went on to say half the plant is out sick, they hired more people and they're not taking care of the problem, I'm scared to go to work every day. I'm risking my live, right. So the person states clearly I'm risking my life. And OSHA didn't inspect the facility. They did not inspect the facility. They took, the related the worker's concern to Maid-Rite, to the company itself and OSHA took no further action.

This is just an example of how OSHA is responding when workers are saying that my life is in danger and I don't know what to do. But of course, this isn't about OSHA, right. This is about New York State and what New York State can do to improve worker safety.

So, first, and I know Ricky spoke about this earlier, but NYCOSH is joining its colleagues in labor and the community to call on New York State to pass legislation, New York HERO, which would create enforceable standards to protect workers from COVID-19. This would include

Joint Hearing COVID Impact on Workforce, 8-13-20

protocols on testing, face masks, PPE, social distancing, hand hygiene, disinfection and engineering control.

And I understand that some people may think this is not necessary, we heard from people earlier who said that OSHA is sufficient, which I could give hours and hours of testimony on why OSHA is not sufficient. But who do workers call when they experience health and safety violations on the job? We train 15,000 workers a year, and when workers ask me, who do I call, they can't call federal OSHA because no one's going to come. And when we train workers who ask these questions, we honestly and truthfully don't know where to send them because the guidance put forth is not enforceable.

Strong penalties and enforcement mechanisms would lead to increased compliance and lower COVID transmission rates. So, again, we don't know where to send workers, we don't see that they actually have a place to go. And workers are scared and they're afraid for their lives, they're afraid for the lives of their

Joint Hearing COVID Impact on Workforce, 8-13-20

families.

The last thing I'll say is, speaking to the previous panel, I earlier mentioned when workers don't have economic stability they'll ultimately work in jobs that will exploit them and put them in unsafe working conditions. And we believe like Deb Axt from Make the Road testified and Diana from NICE testified, that one solution to protect undocumented workers who have been excluded from federal aid is to support the Excluded Workers Bailout Act, and that's something that we feel is important to protect health and safety. Because like I said, if workers, out of economic necessity, have to work, they're not going to feel protected. And I will say anyone who's spoken to workers who have to go to work, mostly undocumented workers right now, you will hear testimony after testimony of workers who are just not safe on the job. Their employers are not doing enough to protect them. And they're scared. They're scared to go to work feel they have to go to work because they can't makes ends meet.

Joint Hearing COVID Impact on Workforce, 8-13-20

So anything that the legislature can do to make it easier on folks so they can make the decision to potentially not go to an unsafe work that might make them sick or make their family members sick, that would be really necessary. So that's it for me. Thanks to the Senate and Assembly for having me here. I appreciate the opportunity.

ASSEMBLY MEMBER MCDONALD: Thank you Charlene. Rebecca?

MS. REBECCA MILLER, DEPUTY LEGISLATIVE & POLITICAL DIRECTOR, COMMUNICATION WORKERS OF AMERICA DISTRICT 1: Good evening. My name is Bec Miller, I'm the New York State deputy legislative and political director for the Communications Workers of America District 1. I just want to thank all of you so much, as we get to the 7:00 p.m. time, thank you so much for your engagement for your time here and for the opportunity to testify today at this important hearing. CWA District 1 represents thousands of essential workers who have been on the frontlines of the COVID-19 crisis in New York, including healthcare

Joint Hearing COVID Impact on Workforce, 8-13-20

workers, telecommunication workers, New York City traffic agents and supervisors, board of election employees and all types of public servants in city and state government.

Sadly, we've lost quite a few members to COVID-19. Our members face extraordinary challenges and dangers going to work since the beginning of the pandemic. Luckily, they've had a union and CWA has been able to win better protections including extended paid leave, hazard pay, safety accommodations for many of our members. However, tens of thousands of essential workers have no union to fight for them.

Throughout this crisis, we've seen an outpouring of support for essential workers, but we need to turn the support and gratitude into bold, legislative change that meaningfully protects workers on the job and improves the lives of workers across New York State.

This testimony will touch on a few ways we can do that. The first I'd like to say is supporting New York HERO. So, as we reopen, we urgently need enforceable and health and safety

protections for all workers. I think we've heard that over and over today. So New York State must pass the New York HERO Act soon to be filed by Senator Gianaris and Assembly Member Karines Reyes.

We have stories upon stories of workers who are afraid to go to work, laughed at for requesting PPE, lied to about the level of disinfection even after numerous confirmed cases in their workplace threatened with retaliation when they were speaking out. While the union has been able to resolve many of these issues, we know that most don't have a union in New York State. And nobody should have to face these workplace conditions.

This legislation would require all employers to adopt enforceable health and safety standards to protect workers from exposure to the spread of COVID. A critical piece of this is worker health and safety committees. In a time where our labor agencies, as we just heard from Deb Axt in a conversation in the previous panel, at a time where we lack the resources to fully

investigate and enforce health and safety laws, worker health and safety committees are a critical tool. Workers are the best, they're in the best position to determine whether a workplace is safe or not. And if a workplace isn't save, they now have legally protected tool to work their employers to address these concerns if this bill passes. OSHA has even lifted these up as central to maintaining workplace health and safety. It's not a new concept, 14 states have it.

Lastly on this topic, while I want to say we desperately need this COVID-19 specific infectious disease standard, we should look towards next session and create a general airborne infectious disease standard to make sure that we're prepared for whatever's to come in the future.

The next topic I'd like to talk about is revenue, impending layoffs and cuts to necessary programs and services. While we know that we need assistance from the federal government, our state was in dire fiscal concerns prior to the

pandemic. Our state must raise revenue by asking the wealthiest among us to pay their fair share. This allows us to prevent cuts and invest in the health and future of our state and fund excluded workers.

There are a slate of bills, I don't need to tell all of you. Ultra millionaires, tax billionaires, tax [unintelligible] [08:34:26] there's a lot of options that we must support and pass. This is life or death. And this has actually been particularly playing out already in the lives of the 15,000 health care workers that we represent. The financial toll of COVID on hospitals has been devastating. So in order to cut costs, they're cutting staffing. What this means is the concern of safe staffing, which our members have been dealing with for decades and which was exacerbated during the COVID crisis is now to an untenable level. We have a workforce exhausted, traumatized and now they're being forced to continue taking care of more patients than they should by health and safety standards and also for their own health.

So we need to do right by the healthcare heroes that we talk and that we clap for at 7:00 p.m., we need to do right by them. We need to do right by those in nursing homes and other health care facilities, we need to mandate safe staffing and the only way to do this is to raise revenue and fully staff our hospitals.

One other issue I'd like to talk about is with board of election. CWA represents Board of Election Workers Locacl 1183 and they conducted a primary during a pandemic. This took an extraordinary toll. As of the last count, three of our members in this bargaining unit have died, several have been on ventilator and more than a dozen diagnosed with the disease and under quarantine.

While CWA strongly supports measures to make voting easier and more accessible and safe, we also need to make sure that when this happens that we don't leave the workers who are doing that work behind. During the primary, more than ten times the number of absentee ballots were received than in recent elections, but the BOE

did not have ten times more staff, copy machines or the space to do social distancing. So as we move forward with implementing necessary election reforms, let's make sure that we also don't forget the workers who are implementing them. And with that, I will conclude with zero seconds left. Thank you so much for all your time.

ASSEMBLY MEMBER MCDONALD: Thank yo

Maritza, bring it home.

MS. MARITZA SILVA-FARRELL, EXECUTIVE DIRECTOR, ALIGN: THE ALLIANCE FOR A GREATER NEW YORK: Thank you so much again. My appreciation to all of you for staying here until 7:00 o'clock, we're going to have dinner together. Thank you so, so much for all the work that you all are doing. So my name is Maritza Silva-Farrell. I am the executive director of ALIGN, the Alliance for a Greater New York. We are an organization that builds longstanding alliance of community and labor and environmental justice organizations.

Since the beginning of the pandemic, ALIGN has built the Essential Workers Table. My

Joint Hearing COVID Impact on Workforce, 8-13-20

colleagues have mentioned about this coalition. This is a statewide coalition composed of 87 labor unions, work organizations and other worker advocates to advance the rights of workers during the COVID-19 crisis.

To date, even months into a deadly pandemic, there are few enforceable occupational safety and health standard at the federal level or in New York to adequately protect frontline workers from infection, as my colleagues also have mentioned. Racial and gender injustice are at the heart of the lack of protections since the beginning of this pandemic.

Essential workers didn't stop working under unsafe conditions at the height of the crisis. And there are disproportionately black and Latinx workers who are least likely to work in jobs that allow them to work safely from home.

New York State can fix this injustice by enacting immediate and effective legislation to protect workers. New York HEROES was mentioned and that's what we're asking for. The stakes are too high for inaction. And we must mitigate the

devastating consequences that this disease will continue to have in our communities. As we heard today from many panelists, COVID continues to spread around the nation and New York must prepare for a second wave.

Effective legislation will require employers to adopt key health and safety standards that cover all workers in our state, including face masks and PPE requirements, social distancing and hand hygiene policies, and these infection protocols. In addition, these standards must enforceable with clear consequences and penalties for employers who fail to comply with the law.

Furthermore, we believe that workers are experts in their own workplace and can play a key role in ensuring safety measures are followed by their employers. Through worker committees, workers will be empowered to raise concerns and report violations as Becca just mentioned. Workers will be empowered and also I think, I believe that the legislation will allow for us to provide strong anti-retaliation protections for

workers who blow the whistle. We heard some of the comments earlier today as well and I'd like to make sure that happen happens.

I want to take a few moments to share what workers themselves are experiencing on the ground and emphasize the urgent need for action now. One private sanitation worker, Anthony Pena remembers a time when his coworker was forced to come to work despite him telling his employer by his compromised immune system. That coworker contracted COVID and died. And even after his tragedy, Mr. Pena states that there is still no safety measures in place and the truck and offices are still not properly cleaned and sanitized.

Evelyn Brown works at an assisted living facility and she contracted COVID twice and each time she feared of how her three-year-old daughter will be cared for. She worked without protective equipment and sometimes had to bring her own mask to work or wear garbage bags due to lack of gowns. The facility did not do deep cleaning and often ran out of soap. At Mrs.

Joint Hearing COVID Impact on Workforce, 8-13-20

Brown's facility, approximately 40 residents have died from COVID-19. More than 30 caregivers have tested positive and one housekeeper has died.

I also want to be clear that this is not just a workers' right issue. Workers infections lead to community spread and the lack of enforceable standards in workplaces exacerbates these public health emergencies. An outbreak, there's an example of an outbreak at Chaplain Valley Specialty, an apple manufacturing company in Oswego was linked to other clusters of positive COVID-19 cases in neighboring counties. I know the outbreak at Green Empire Farms yield 390 positive cases and was at one point the largest COVID-19 outbreak in upstate New York. Both of these instances could have been prevented.

So just guidelines are not enough to protect workers. The COVID-19 crisis is shining a light on the unsafe and abusive conditions workers have had to endure simply to support themselves and their families. For years, [unintelligible] [08:41:15] obsession with

efficiency have led to injury and even death. And now these employees are forced to work shoulder to shoulder with colleagues who may be infected with deadly virus.

New York cannot rely on these businesses to oversee themselves. Many businesses will not change their behavior unless there are consequences for their decisions. This pandemic is no exception. We cannot risk anymore lives in the interest of justice and protecting the public health. ALIGN and the New York Essential Workers call for immediate legislative action on this matter. We thank Senators Gianaris and Assembly Members Reyes for all the efforts that they're doing right now.

Additionally, I would like emphasize the importance of protecting essential workers and families that are excluded from current income relief.

ASSEMBLY MEMBER MCDONALD: We need t

bring it home, okay?

MS. SILVA-FARRELL: Yeah, I will say a couple things. Albany must step in to create an

excluded worker fund that would provide a flat rate emergency income benefit to major groups of workers who were mentioned earlier in the testimonies of my colleagues. That is how we will do right for the hard working people of New York. Thank you so much for the time and I appreciate the extra time you have given me.

ASSEMBLY MEMBER MCDONALD: Thank you Senator, there is no assembly members ready to speak, so to the Senate.

SENATOR RAMOS: Well, we do have Senator Skoufis with a few questions. Senator?

SENATOR SKOUFIS: Thank you. And you said that as if you were upset with me for getting [unintelligible] [08:42:51].

SENATOR RAMOS: I am never upset with you. I am never upset with you, just pointing out you have been the consistent question asker.

SENATOR SKOUFIS: Okay. The record shall reflect.

SENATOR RAMOS: That you're the consistent question asker of every panel, which is appreciated. And I'm just still waiting for

Joint Hearing COVID Impact on Workforce, 8-13-20

you to sign that [unintelligible] [08:43:05] slip. Love you, ask your questions.

SENATOR SKOUFIS: Okay. This question is for Becca. And I asked this of a previous panel with NYSNA and PEF. Obviously, CWA is very interested in safe staffing. The long, overdue safe staffing study is supposed to be released tomorrow. I'm wondering what sort of engagement CWA had with the Department of Health? Did they do outreach? Were they bringing you to the table? Also, what do you expect tomorrow, if you have any sense of what this study might look like? And connect it to all that. Can you speak to how much of a priority, now we're on the other side of this pandemic, we're not completely through it, we're on the other side. Over the past five months looking back, how much of a priority is this getting safe staffing across the finish line ahead of the next pandemic or ahead of the next second wave? Is this the top priority? Is this top three for your members in terms of things that we could do as a legislature that would have the greatest impact in protecting the public's

health the next time we have to go through this. I know there are a few questions sort of packed into all of that.

MS. MILLER: Yeah, I will do my best to answer all of them. I would say certainly safe staffing. We've been fight for safe staffing for decades. It is consistently a labor, it's number one labor concern among our healthcare workers and it is absolutely a top priority. I think, listen, study after study for decades past by research institutions has shown safe staffing saves lives. And we have seen that time and time again. And COVID hit and it was proven yet even to the nth degree.

So I think the importance of safe staffing cannot be minimized. However, I would also say our hospitals are in a dire financial situation as so many institutions and businesses are. So it can't, we can't talk about safe staffing without talking about revenue. We need to raise revenue. We need to fully fund our hospitals. We've been expressing such gratitude towards our healthcare workers, yet our

Joint Hearing COVID Impact on Workforce, 8-13-20

healthcare workers are still working in terrible conditions. The number of COVID patients have gone down, but the patients that they're seeing is still very high and above state's recommendation.

So safe staffing is definitely a top priority. It is an essential thing for the health and safety of our state and for the people of New York but also for the health care workers who staff our healthcare facilities and in that conversation, we must explore raising revenue. The money is there, we need to put it towards the things that are critical.

SENATOR SKOUFIS: Any expectation as to what's coming tomorrow?

MS. MILLER: Yes, I forgot about that one.

SENATOR SKOUFIS: That's okay.

MS. MILLER: Yes. We, you know, we absolutely participated in the DOH's process. I have no idea what will come out tomorrow. We've been waiting patiently for the last eight months. This study was due in December of 2019. We are

excited to see what it says tomorrow. However, I would say that it would be surprising to me if they found anything other than what we've seen time and time again, safe staffing saves lives. We need it.

SENATOR SKOUFIS: I guess we'll find out soon enough. Thank you.

ASSEMBLY MEMBER MCDONALD: Okay. Anything, anybody else? Oh, yes, Senate.

SENATOR RAMOS: Oh, Senator Jackson.

SENATOR JACKSON: Thank you. Let me thank you for coming. If we were up in Albany or New York City, you would be in the hearing room you would have to wait. But all of you are either in your office or in your homes and that's a good thing. But I just have one question. And, Becca, you talked about it raising revenue, I would assume that your union is for us raising revenues on the wealthiest New Yorkers. And I ask that question of all the speakers, whether or not your organization that you're with or union, are you ready to help us raise revenue from the wealthiest New Yorkers?

MS. MILLER: Yeah, absolutely. Our union has been actively in this fight for many years. It is something our members feel very strongly about. We understand that we cannot have the society we all deserve to live in without an equal revenue raising scheme. We need to tax those among us who have profited the most and who are the wealthiest and we need to make sure that we have all the revenue we need to support the public programs and services that we all rely on, that make us a healthier stronger state, so 100 percent CWA is there.

SENATOR JACKSON: Maritza? Your organization.

MS. SILVA-FARRELL: Yes, at ALIGN, I think we are fully committed to this. This is a fight we have had similar to CWA, like for a really long time. There is a time in which we can actually generate revenues by getting billionaires to actually pay for their fair share, the time is now, so we're fully at ALILGN in support of this.

SENATOR JACKSON: Charlene, if you know

and can speak for the organization.

MS. OBERNAUER: Yes, 100 percent.

SENATOR JACKSON: Okay. I just want to know. As you know, a lot of people cannot necessarily speak for the organization, and I just wanted to know what the organizations, especially when we move towards, as you know, approximately two weeks ago, our leaders, both the Senate and the Assembly leaders basically came together and said that we should be looking at raising revenues in order to make sure that we address all the concerns that the panelists have brought up as far as safe staffing, as far as funding, the agencies' funding, healthcare funding, education and this is not only for New York City, this is for everywhere, small rural areas, suburban areas.

It's very important that we maintain the quality of life that all of us are used to and those that are suffering the most, we need to make sure that they can survive this pandemic with us. So I thank you. Thank you, co-chairs.

ASSEMBLY MEMBER MCDONALD: Jo Anne S

Joint Hearing COVID Impact on Workforce, 8-13-20

from the Assembly.

ASSEMBLY MEMBER SIMON: Thank you. Tha

you very much. Thank you all for your testimony. It's just been terrific and we've learned so much throughout the day from all of the witnesses and you've been just great. I did want to ask a question of Ms. Obernauer about OSHA and that is that cited a statistic about a reduction in enforce I believe by 17,000 and what I didn't quite get was since when, if you could clarify that statistic because I'm not make sure got all of it. It's quite astounding to me that there has been that much of a drop off in OSHA enforcement over the years. I'm curious if you could tell me more about that.

MS. OBERNAUER: Sure. So, the statistic is that the number of OSHA citations that took place between January 1st and May 22nd of 2020 was 17,000 less or 17,000 fewer when compared to the same period in 2019.

ASSEMBLY MEMBER SIMON: That's incredible.

MS. OBERNAUER: Yeah.

ASSEMBLY MEMBER SIMON: What, do you attribute that to something in particular? It's not like it's -- we still have the same administration, in Washington? Is it because of a reduction in their own capacity during that time? Do you have any particular rationale for why you think that may have occurred?

MS. OBERNAUER: I think that they, like many other agencies, like many other organizations, started to do work from home and stopped actually going out in the field and doing inspections. So instead of what you would think is that they would be out there on the frontlines, they'd be doing inspections wherever inspections were needed. But in this case, it seems like the inspections actually slowed down significantly.

And we've been analyzing OSHA's response to this pandemic since it started and one of the most shocking things is just the number of citations they even have issued When Scalia testified in front of the U.S. Senate, he indicated that there -- this was in June, that

they had only issued one fine to employers.

So their approach is very much trying to work with employers and kind of handhold them into following guidance, instead of actually following what the standard should actually be. And one really great read that I want to recommend is President Trumka of the National AFL-CIO wrote a letter to Scalia of OSHA and they actually had a correspondence, which is public. And it's really astounding just to see the different perspectives. You know, on the one side, President Trumka is saying that that enforcement has not been there, that it has just been totally weakened and OSHA is AWOL. And the other side, the head of OSHA essentially saying we rely on employers to follow the guidance, and that's really been the MO of this administration.

ASSEMBLY MEMBER SIMON: Okay. Thank yo very much. I appreciate it.

MS. OBERNAUER: Thank you.

ASSEMBLY MEMBER MCDONALD: Senator, you have any other members?

SENATOR RAMOS: I don't. I don't have

any other members with questions. Do you?

ASSEMBLY MEMBER MCDONALD: I do not want to thank our panelists. I want to mention one thing, personal privilege, Becca, you had mentioned about safe staffing but also the fact that our hospital are really under resourced as well. And the two need to work together. And as you might have heard from a few of our colleagues, there's plenty of suggestions of how we can raise revenue, which you all support.

But there's also a recognition that we need to keep in mind and I've been very clear on this. For decades the federal government has refused to reimburse for its Medicare rates to hospitals appropriately. Whereas this state contributes billions and billions of dollars to the U.S. economy through our federal taxes, we get peanuts when this comes to medical services. And that needs to be a larger part of this discussion as well. So to all of you, we thank you for your contribution.

Unfortunately you're panel 12, you're not lucky number 13, which is our finishing panel

Joint Hearing COVID Impact on Workforce, 8-13-20

this evening. We will now seat our last two speakers for the evening. No pressure. From the New York Civil Liberties Union, legislative attorney Lisa Zucker, and from the New York Chapter of the National Employment Lawyers Association, Margaret McIntyre. Lisa, you have the privilege of kicking us off or kicking this off and then Margaret has the privilege of closing it out.

MS. LISA ZUCKER, LEGISLATIVE ATTORNEY, NEW YORK CIVIL LIBERTIES UNION: Okay.

ASSEMBLY MEMBER MCDONALD: Go ahead

MS. ZUCKER: Great. Thank you, all, so much. Good evening. I certainly never put good morning or good afternoon in my remarks, I knew it would be late. Thank you all for staying so late and for all your questioning and interest in this issue. My name is Lisa Zucker. I'm legislative attorney with the New York Civil Liberties Union, the NYCLU is the state affiliate of the ACLU. We are a not-for-profit, nonpartisan organization with eight offices throughout the state and over 180,000 members and supporters.

Joint Hearing COVID Impact on Workforce, 8-13-20

As the last panel I will try to limit my -- I will limit my remarks to what has not been said already today. Believe it or not, there are a couple of things that I would like to address. One is the special needs of the agricultural workforce and two is the need to strengthen and expand emergency COVID paid sick leave.

But before I begin, I want to echo what Maritza said on the last panel. Although today's hearing is entitled the impact of COVID on the workforce, we are talking about so much more here than workers' rights. For every worker who toils in an environment where the risk of COVID is high, the impact on family members, friends, separate community risks that same infection. No one wants to go back to the dark days of April, but that is what we risk if we do not sufficiently protect our workers.

So, on to the special needs of agricultural workforce, there are an estimated 80,000 to 100,000 farm workers in New York who produce over $5 billion of revenue for our state annually. The first reported infections among New

Joint Hearing COVID Impact on Workforce, 8-13-20

York farm workers began in April. The worst outbreak so far was in May, when 171 workers at the Green Empire Farms in Oneida became infected with the virus. Since then, we have been seen more outbreaks across the state. In late June, there was another outbreak in an Oswego county apple processer infected 82 of 179 workers.

In May of this year the governor issued guidance documents for the prevention and response of COVID-19 on farms. While helpful, as others have said today, we need more than guidance. We need a legal obligation. We need enforcement mechanisms. We need penalties and teeth, really, to make the bad -- not all employers are bad. The ones who follow the law -- follow the guidance, are not the one we're talking about. We're talking about the ones who aren't. That why we have laws most of the time.

We also need enforceable regulations for all employer-operated housing. This is a huge issue in the farm worker community. Too many farmers live in cramped, unsanitary housing with little or no ability to social distance. In fact,

the Empire Farm outbreak was traced not to the workplace but to the way that the workers, the farm workers lived, many of whom lived in employer housing.

Last year, this body led by Senator Ramos, passed the historic Farm Labor Fair Labor Practices Act, which does include a section on housing and expands DOH's authority over the certification and licensing of farm labor camps. That provision takes effect in January. In addition, there is, there may be some confusion about whether the new provision applies to all farm labor camps or just those that house migrant workers. We need to clarify and fix that.

We also need to enact stronger quarantine and isolation requirements. Because farm workers are considered essential workers, they're permitted to work if they test positive and they remain asymptomatic. But they have to quarantine when they're not working. If you're working on a farm, in employer housing and you're quarantining with all the other workers there, you are spreading that infection.

Another issue that is unique for farm workers is there are 8,000 H2A visa holders, workers who are coming into our state as we speak. This is the high season for farm workers. These people are coming from states that have high infection rates. There need to be quarantine and isolation enforcement. We have heard stories where all the workers are just put together in one house when they all are not part of the same unit and they're just infecting each other and then they're going out into the workforce and they're infecting their co-workers.

I'm running out of time. I do want to address for two seconds expanded paid sick and family leave. Governor Cuomo in March signed the emergency legislation. We need what was done for health workers, I believe Senator Ramos asked the commissioner this question, if DOL could do for all workers what they did for health workers, which is to ensure a doctor's note is sufficient for an order of quarantine and isolation, that workers would be entitled to more than one paid sick leave period and we need to clarify that

Joint Hearing COVID Impact on Workforce, 8-13-20

paid sick leave is an emergency sick leave, is in addition to our new permanent paid sick leave that is going to go in effect September 30th. I yield the floor, but I'm happy to answer questions. Thank you.

ASSEMBLY MEMBER MCDONALD: We appreci your comments. Thank you. Margaret?

MS. MARGARET MCINTYRE, ATTORNEY AT LAW, NATIONAL EMPLOYMENT LAWYERS ASSOCIATION, NEW YORK CHAPTER: Good evening. My name is Margaret McIntyre. I'm a member of the legislative committee of NELA New York, which is the New York affiliate of the National Employment Lawyers Association. And we are a group of attorneys who represent employees who have been denied their rights. We deeply appreciate the work of all of you to put this hearing together and to include our perspective here.

And I'm going to try to not repeat things said, too. But, because I am glad that labor law sections 740 has come up today, but it is impossible to talk about the health and safety issues in the workplace during COVID without

Joint Hearing COVID Impact on Workforce, 8-13-20

addressing the fact that under New York law, it is legal for an employer to fire workers who complain about what they believe to be dangerous and unsafe working conditions. It is legal for, at a hospital to fire janitors who raise concerns about lack of gloves and masks. It is legal to fire retail workers who complain they are at risk because they lack plastic barricades or other PPE. It is legal to fire factory workers who complain that they are working side by side in what they believe to be inadequately sanitized facilities or a lack of social distancing.

And this is because of New York's whistleblower law, Labor Law 740. 740 only protects people who complain about conduct that is both an actual violation of a specific law, rule or regulation and the contact also has been to be a substantial threat to public health and safety. So, the law as it exists today fails to protect most workers.

And, you know, the country's response to the pandemic has led to a lot of confusion and constantly changing information about what kind

of workplace is safe. And, as we've heard today, there are too few requirements that workplaces be kept safe, too many options for employees who are not working in safe environments. So, basically in New York State, if a worker raises a concern about a safety issue that is not actually a provable violation of a law and her boss doesn't like that, she's subject to termination. Workers who speak up can get fired. Workers who don't speak up are left to work in potentially dangerous situations.

So, and because of the weak whistleblower law that we have, even essential workers, the ones, people that all of us depend upon are put in a double bind. Speak up and risk getting fired or remain silent and risk illness or death not only for themselves but for their families, their communities, our communities, all of us.

And as usual, the situation disproportionately affects low wage workers who are disproportionately people of color. And the more financially insecure a worker is, the

tighter the squeeze she's in when the workplace is unsafe. And I mean, it's just not tenable. It was bad enough before COVID, but it's not tenable with COVID.

Workers, all workers must have the right to speak out if they believe their workplaces to be unsafe and COVID presents a very real and serious threat to public safety and health, but it's a little trickier right now about whether there's any law, rule or regulation that's violated by these unsafe conditions and that's what has to change.

Since I have just a few more seconds, I would say first of all, amending section 740 of labor law would not cost the budget anything. So that's something to be considered. And it's just about, if nothing else, these people who have gone through so much suffering over the last few months, unemployment, sickness or maybe they've managed to avoid sickness, but they finally get back to work, but they can't say anything about an unsafe place or they could risk being fired? We need to give employees more power in this

regard.

And I'm glad SWEAT came up in the last couple of panels. That's also very important. If workers have the ability to file a wage lien when they're not paid, they would have much better chance of collecting on unpaid judgments for wage and hour violations. Thanks.

ASSEMBLY MEMBER MCDONALD: Thank you our final two panelists for the evening. I'm looking to see if we have any comments on the Assembly. I do see one, if you don't mind, senator, if the Assembly goes first.

SENATOR RAMOS: Go ahead.

ASSEMBLY MEMBER MCDONALD: All right Anne Simon. Hmm, I wonder what she's going to talk about?

ASSEMBLY MEMBER SIMON: Gee, maybe expanding 740? And whistleblower protections. I did want to thank you, Margaret, for speaking about that. You know you brought up the laws and rules and regulations issue and whether or not that could be proven under the current 740. I have a concern that the guidelines are so

amorphous that establishing whether someone would -- whether a workplace is violating the rules might not be as clear as it needs to be, even with an expanded 740.

Do you have any suggestions as to how we might remedy that? A number of witnesses have called for establishing very specific standards, going through it industry by industry, for example, and working between the Department of Labor and Department of Health. Is that something that you would endorse? Do you have any other approaches or proposals for that?

MS. MCINTYRE: Well, you know, I can't speak to specific rules or bills, pending bills that NELA supports in terms of the safety regulations. But I do want to emphasize this, that probably the most important change to section 740 is eliminating this requirement that some kind of conduct be both illegal and a threat to public health or safety. Now, if it were just the -- if the "and" were just changed to "or" then people, and if this had, you know, if we had this now, then people who are speaking out now or

have been speaking out over the last few months and having no recourse, that wouldn't be happening because the way the bills that are pending are proposing to change section 740 is to eliminate that conjunctive requirement and make it so an employee is protected if he or she has a reasonable good faith belief that the employer's activity is either illegal or poses a substantial threat to public health or safety. So it's that "and" that has to go.

ASSEMBLY MEMBER SIMON: Thank you. I appreciate that.

ASSEMBLY MEMBER MCDONALD: Senate?

SENATOR RAMOS: I don't believe that we have anybody. I don't believe we have anybody else.

ASSEMBLY MEMBER MCDONALD: We do.

SENATOR RAMOS: You do? Go right ahead.

ASSEMBLY MEMBER MCDONALD: Yes, we from the other side of the aisle, our Ranker Brian Manktelow. Brian?

ASSEMBLY MEMBER MANKTELOW: Can yo me okay?

Joint Hearing COVID Impact on Workforce, 8-13-20

ASSEMBLY MEMBER MCDONALD: Yes we ca

ASSEMBLY MEMBER MANKTELOW: Thank y

Lisa, if you have a a few moments I would like to talk to you about the farm workers. My district covers Wayne County, Cayuga County, and Oswego County, the county where the apple packing plant was. In Wayne County, just to give you a positive, myself and Senator Helming met with Wayne County apple producers, the Department of Health, other key individuals in the county who were very proactive about two months ago, knowing that Wayne County is the largest apple producing county in the state, third largest in the country knowing how many workers would be coming in.

So I had a chance to go out to the labor camp, go through the labor camps with the Department of Health, be there with the farmers, coming up with a plan, looking at where they're staying. And I believe that the farmers that we met with and are in Wayne County are doing everything they possibly can. I know that we've talked about 14-day quarantine once they get here, the workers, temperatures, masks and

Joint Hearing COVID Impact on Workforce, 8-13-20

talking about where are we going to put a worker if they do get COVID, so, just a positive thing.

We are in this area pushing it very hard because the safety of the workers are so important, not only to them, but also for the making sure that the apples get harvested, because we have six or seven weeks to make that happen. So we are being very proactive there. And I want to assure that we're doing everything we can to make everything safe for everyone.

SENATOR RAMOS: All right.

ASSEMBLY MEMBER MCDONALD: Okay.

SENATOR RAMOS: We thank everyone for coming.

MS. ZUCKER: I just wanted to say thank you. Thank you, assembly member ranker. I appreciate that you're doing everything that you can and I'm sure that the workers are going to be much safer for it. We just, you know, we think that if we just have the chance for DOH to be a little more proactive when we're licensing or certifying, maybe these issues won't arise or maybe won't arise in the future. But thank you

for taking care of that and taking care of your workers and your constituents.

ASSEMBLY MEMBER MANKTELOW: Yeah, I pretty good working with DOH on this and the direction we're going. So we are very, very proactive. Thank you, though.

SENATOR RAMOS: All right.

ASSEMBLY MEMBER MCDONALD: I doesn't look like there's any other questions. Senator, I'll start with you with closing comments.

SENATOR RAMOS: Well, no, I just want to thank you, first, John. You've been a great partner throughout the day. Thank you so much for working in lockstep with me on this. And of course, Senator Skoufis and Sanders who helped co-chair today's hearing. I want to thank all of the folks who testified very bravely, especially the workers. It's been quite difficult to hear all of these stories of struggle and hardship, but it's necessary to share those stories so that as state legislators, we can come up with possible solutions and push for the needs and resources that we need at the state level.

Joint Hearing COVID Impact on Workforce, 8-13-20

I do want to remind everybody that we've lost more than 20,000 people in New York State to the coronavirus. That is many times over from the number of people that we lost in 9/11 unfortunately, and we have seen how hard the fight for the Zadroga Act to protect our first responders has been. We need to learn that lesson and ensure that this does not become a similar situation or worse. I want to make sure that we're taking today's testimonies to heart and putting them into action, into progressive legislation that will protect our workers today and forever more.

So thank you all for participating today and I look forward to working very closely with you all.

ASSEMBLY MEMBER MCDONALD: And on be

of the Assembly, senator, it's been a pleasure to work with you and your colleagues. We have had a lot of great, meaningful, thoughtful testimony today. Sometimes, it might have been seemed repetitive, but the reality is it put a different picture on the issue, because I think we tend to

Joint Hearing COVID Impact on Workforce, 8-13-20

sometimes compartmentalize and there's many more individuals involved. I want to thank our ranker of banking, Tom Abinanti, who joined us today well and Brian Manktelow, thank you. We've spent believe it or not, 41 hours together in the last three hearings and you've been a real trooper through this. And of course, Jim, it's always good to see you. I want to thank my colleagues in the assembly that are still participating on both sides of the aisle. It's great they have been so committed.

And I want to mention something I mentioned about ten hours ago that I think needs to be reinforced. Although, sometimes the questions may have been a little bit limited, understand that there's dozens and dozens of staff, hard-working staff, who deserve a great shout out today, who have been taking copious notes. And I know I've already been sharing messages with the respective chairs on ideas and thoughts on what we need to do.

So with that, we want to bid you adieu. Thank you for tuning in to the New York State

Joint Hearing COVID Impact on Workforce, 8-13-20

legislature Zoom channel and with that, we'll say good night.

SENATOR RAMOS: Yes, good night, and thank you to the central staff at the Senate and the Assembly, thank you very much.

ASSEMBLY MEMBER MCDONALD: Thank yo

SENATOR JACKSON: Thank you, everyone.

SENATOR RAMOS: Good-bye.

(The public hearing concluded at 8:15 p.m.)

CERTIFICATE OF ACCURACY

I, Ryan Manaloto, certify that the foregoing transcript of Joint Public Hearing on the Impact of COVID-19 in the Workforce on August 13, 2020 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By

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