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

JOINT LEGISLATIVE HEARING

In the Matter of the
2021-2022 EXECUTIVE BUDGET ON
WORKFORCE DEVELOPMENT

Virtual Hearing
Conducted Online via Zoom

February 2, 2021
3:46 p.m.

PRESIDING:

Senator Liz Krueger
Chair, Senate Finance Committee

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

PRESENT:

Senator Thomas F. O'Mara
Senate Finance Committee (RM)

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

Senator Jessica Ramos
Chair, Senate Committee on Labor

Assemblywoman Latoya Joyner
Chair, Assembly Committee on Labor

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

2021-2022 Executive Budget
Workforce Development
2-2-21

PRESENT: (Continued)

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

Senator Pete Harckham

Assemblywoman Carmen De La Rosa

Senator Brad Hoylman

Senator Roxanne J. Persaud

Assemblyman Phil Steck

Senator Diane J. Savino

Assemblyman Joe DeStefano

Senator George Borrello

Assemblywoman Judy Griffin

Senator Shelley Mayer

Assemblyman Harry Bronson

Senator John Liu

Assemblywoman Jo Anne Simon

Senator John W. Mannion

Assemblyman Colin Schmitt

Senator Mario R. Mattera

Assemblywoman Jodi Giglio

Senator James Tedisco

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CHAIRWOMAN KRUEGER: Good afternoon. Welcome to Hearing -- {inaudible}. It is 3:30 in the afternoon, and these are the joint legislative budget hearings of the Senate and the Assembly.

I am Senator Liz Krueger, the chair of the Finance Committee in the Senate. I am joined by -- many colleagues, but Helene Weinstein, the chair of Ways and Means in the Assembly. We will be cochairing today's budget hearing.

Today is the fifth of 13 hearings conducted by the joint fiscal committees of the Legislature regarding the Governor's proposed budget for state fiscal year '21-'22. These hearings are conducted pursuant to the New York State Constitution and Legislative Law.

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

State Governor's Office of Employee Relations.

Following each testimony there will be some time for questions from the chairs of the fiscal committees and the other relevant committees. I will now introduce members from the Senate, and Assemblymember Helene Weinstein, chair of the Assembly Ways and Means Committee, will introduce members of the Assembly.

Following, actually, Senator Tom O'Mara, the ranking member of the Senate Finance Committee, will introduce members of his conference.

I want to say hello to everyone. Welcome, you. I'm just going to go through to see if I can find my Senate list. I see Senator Shelley Mayer, Senator Andrew Gounardes, Senator Borrello -- I believe I did see him. Yes, George Borrello. Senator John Mannion. Senator Ma -- excuse me, I'll wait. Senator Pete Harckham. Senator Diane Savino. Senator -- that might be it for now.

I'm going to pass it quickly to

Tom O'Mara to introduce the Republican members.

SENATOR O'MARA: Yes, thank you, Chairwoman Krueger.

We have Senator Borrello, who you mentioned, and Senator Mario Mattera has joined us as well. I think that's all I saw on our list. Thank you.

CHAIRWOMAN KRUEGER: And as more Senators join us, we will introduce them as we go along, not to worry.

Back to you, Assemblywoman.

CHAIRWOMAN WEINSTEIN: We have the chair of our Labor Committee, Assemblywoman Joyner; chair of our Government Employees Committee, Assemblyman Peter Abbate. We also have Assemblymember De La Rosa and Assemblymember Steck.

Assemblyman Ra, chair -- ranker of Ways and Means, will introduce the members of his conference that are here.

ASSEMBLYMAN RA: Thank you, Chairwoman. We are joined by Assemblyman Colin Schmitt, and Assemblyman Joe DeStefano,

who is our ranking member on the Government Employees Committee.

CHAIRWOMAN KRUEGER: Great, thank you. I'm sorry?

CHAIRWOMAN WEINSTEIN: I see we've also been joined by Assemblywoman Jo Anne Simon. So now back to the Senate.

CHAIRWOMAN KRUEGER: Thank you.

So the rules of the road. The government representatives each get 10 minutes to testify. The chairs of the committees get 10 minutes to ask them questions. The rankers get five minutes to ask them questions. And then everyone else gets three minutes to answer {sic}. And the commissioner needs to give the answers within those time frames as well. We'll walk through that a little bit later if we get confused.

And so I'd like to first introduce Commissioner Roberta Reardon, who is the commissioner of the Department of Labor.

Good afternoon.

COMMISSIONER REARDON: Good afternoon.

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

My name is Roberta Reardon, and I am the commissioner of the New York State Department of Labor. I am proud to lead the department in carrying out its mission of protecting workers, providing benefits to the unemployed, and connecting job seekers to jobs.

This past year was a challenging one for all of us. However, the men and women of the DOL, while pushed to the brink, went above and beyond to help their fellow New Yorkers in their time of need, and they remain dedicated to the vital work we do to protect and assist all New Yorkers.

We could not have tackled this crisis without your help, the help of your staff members, and those from our state workforce who stepped up to assist. And from the

bottom of my heart, I thank you.

Governor Cuomo has also been steadfast in his leadership and in helping all of our agencies navigate this unprecedented pandemic that no one saw coming. Every state has experienced an historic surge in unemployment claims, and every state's system have been pushed to the limit by this pandemic. But few states have seen the magnitude that New York has. And in New York, we've moved faster and more aggressively than any other state in the nation to get New Yorkers the money they so desperately need.

To give you some context about this crisis, since the COVID-19 pandemic began in early March the Department of Labor has paid over $65 billion in unemployment benefits to more than 4 million New Yorkers in just over 11 months. In 2019, we paid just $2.1 billion in total for the entire year. In that context, we have paid over 30 years' worth of benefits in just over 11 months.

As taxing as this pandemic has been on our systems and our DOL family, we embraced

those challenges head on and used the opportunity to thoroughly reevaluate best practices to better serve New Yorkers.

Our UI modernization project was already underway, and because of that we were in a better place than most states when this crisis hit.

And because of the tsunami of claims this crisis caused, we have refocused our efforts and implemented improved technology and better procedures ahead of schedule, including building and launching a new online unemployment application backed by Google Cloud technology; providing a seamless application experience for Pandemic Unemployment Assistance applicants weeks ahead of other major states; launching a streamlined DocuSign process for submitting backdated certifications, allowing New Yorkers to get paid easier and faster; and expanding the number of DOL representatives making and answering calls, from 700 to over 3,000 a day, to increase our claims processing capacity.

We also learned how to better communicate with our customers in real time and in ways that they can understand, across multiple platforms, such as introducing an updated and streamlined automated phone system that better connects unemployed New Yorkers with the help they need; improving our online and social media presence to get relevant information out to claimants as quickly as possible; implementing an automated chatbot on our website, which can answer New Yorkers' frequently asked questions in multiple languages; and rolling out a system to directly text and email applicants the status of their claim as it moves through the approval process. And I'm happy to say there are more improvements coming.

Now, I would be remiss if I did not mention the incredible work of DOL's Office of Special Investigations. During this crisis it has prevented over $5.5 billion from falling into the hands of fraudsters by identifying more than 425,000 fraudulent

Unemployment Insurance claims.

While much of our work and our staff has been devoted to Unemployment Insurance for the last several months, our work as a multifaceted agency never stopped, and now we are pivoting staff and resources back to other parts of the agency.

One of our most critical priorities is providing resourceful and innovative ways to help New Yorkers get back to work, and finding creative solutions to help businesses thrive in a new world of work.

Within the last couple of weeks the DOL took emergency measures to implement a Partial Unemployment Insurance Program which bases New Yorkers' partial unemployment benefits on the hours they actually work, rather than on the number of days they work in a given week. Under this new system, unemployed New Yorkers who accept part-time work will not be penalized, and it will also help businesses fill part-time positions.

We've launched a new platform of virtual services. This includes Career Fairs

and a contract with Coursera to provide a free online training platform that offers nearly 4,000 programs and learning opportunities for the unemployed.

We remain committed to connecting New Yorkers with the jobs they love and jobs that are available now. The DOL has more than 120,000 jobs posted from all regions in the state, across all industries, on our Jobs Express website at labor.ny.gov/jobs. We're sending proactive recruitment emails as well as encouraging both businesses and unemployed New Yorkers to utilize our Jobs Express website.

And we are also working to ensure that New Yorkers are trained and ready to meet the needs of the new green jobs created by our emerging clean-energy sector.

In addition to helping New Yorkers get back to work, we've been hard at work on other important DOL initiatives. Thanks to Governor Cuomo's proactive agenda to empower workers and protect the health of New Yorkers, they can begin using sick leave

benefits under the state's nation-leading paid sick leave law. Prior to the law's passage, approximately 1.3 million New Yorkers did not have access to paid sick leave, forcing them to either take unpaid leave and risk losing their jobs or show up to work while sick.

As a member of the New York State Climate Action Council and cochair of the Just Transition Working Group, I am working aggressively with my fellow members on a comprehensive plan to achieve the state's bold clean energy and climate agenda. I applaud Governor Cuomo for the progressive "green energy economy" he outlined in this year's State of the State, which will complement our efforts to build a better future and a greener footprint for all New Yorkers.

The Department of Labor is committed to protecting workers and leveling the playing field for all businesses, including our farm laborers and employers in the agricultural community. Under the Farm

Laborers Fair Labor Practices Act, I convened a Farm Laborers Wage Board. The board held five public hearings to hear testimony on overtime work. Due to the COVID-19 pandemic and the current economic climate, the board recommended a pause on any actions, with a call to reconvene the wage board by the end of 2021.

2020 pushed many state agencies to their limits, including the Department of Labor. However, we rallied together to weather this enormous storm, got the job done ahead of most states, and frankly, overall, it made us better as an agency. We recognize that there's more to come, and we're prepared to meet those challenges. We've learned many valuable lessons that have strengthened us as an agency. We've improved our communication and our technology. We have a new, renewed vigor and focus, and we have more initiatives to come.

Our mission has always been to do whatever it takes to help New Yorkers. throughout this pandemic, we have gone above

and beyond to deliver on that promise, and we will continue to do just that.

CHAIRWOMAN KRUEGER: You didn't even use your 10 minutes, Commissioner.

COMMISSIONER REARDON: I know.

CHAIRWOMAN KRUEGER: You get extra points. Thank you.

COMMISSIONER REARDON: I saved them for you.

(Laughter.)

SENATOR RAMOS: I'll take them!

CHAIRWOMAN KRUEGER: Exactly.

Our first questioner will be our Labor Chair, Senator Ramos, who has 10 minutes.

SENATOR RAMOS: Thank you, Chair Senator Krueger. Commissioner Reardon, it's good to see you.

It's true, we've gone through very difficult times here in the state, and you have gone through very difficult times. I think you've done the best you can with what you've been given. And why we're here is to talk about how you haven't been given enough, and how we need to advocate for more.

I actually want to begin by talking about partial unemployment. We passed the bill a few weeks ago in the Senate, but the administration has repeatedly said that they can't implement the new PUI system for at least a year because of the agency's antiquated computer systems. This was the same issue that we had with Unemployment Insurance when folks were making their claims at the peak of the pandemic the most.

Other states, like Georgia, have been able to update their computers and implement complete partial UI reforms. Why is New York moving so much slower than other states to make these long-overdue fixes? And why would it possibly take a year to implement these needed reforms?

COMMISSIONER REARDON: So there's actually two parts to the partial unemployment fix, as it were. The first part is the executive order that allows people to start certifying for partial unemployment, and they started certifying -- I believe it was last week was the first week they could

start certifying for that.

The final fix, which is to rewrite our law, will take place in the budget, hopefully, and then will be coded into the new UI system when it goes live the last quarter of 2022.

So it's a little confusing, because it's not that it can't be implemented. The executive order, which is an emergency order, is taking place right now. And in fact people are able to qualify for this now. The final fix can't go into the mainframe system until we -- you know, we redo the whole system. So it's actually two parts. But people are certifying for partial unemployment now.

SENATOR RAMOS: So, Commissioner, the interim partial UI policy that has been implemented disadvantages workers whose hours don't always correspond with their earnings.

So for example, a taxi driver who is on the clock for 12 hours but only has customers for, say, six hours, would still lose 50 percent of his benefits. How are

workers supposed to make up for lower-than-expected earnings when each hour on the clock means they lose more benefits?

COMMISSIONER REARDON: So first of all, taxi drivers are independent contractors, so they would not qualify as employees for standard UI.

SENATOR RAMOS: Well, we're going to fix that.

COMMISSIONER REARDON: Under the CARES Act they might be able to qualify for PUA, but they would not qualify for strict unemployment.

SENATOR RAMOS: Okay. Okay. But if you can answer the question -- you know, a barista.

COMMISSIONER REARDON: So we -- this fix is there to allow people to work part-time and collect partial unemployment. We have to have some kind of metric to do that.

Right now we have the table -- I have it here somewhere. I'm sure you know it by heart. Zero to four hours, there's no ding

on your benefits at all, and then it goes up by increments. You can't earn more than 504 or you'll lose your entire benefit anyway.

But this is a way to allow people to have some partial work and some partial unemployment.

SENATOR RAMOS: Right. So you recently issued the order on PUI that converts hours into days of work. We've heard from workers that are confused about how to count the hours that they are working, since they are often spending a lot of time waiting to work or provide services.

Have you or will you issue guidance on how ride-share, even gig workers should be counting their hours of work?

COMMISSIONER REARDON: I think that we are doing as much as we can within the existing law. We have a lot of direction up on the website. And, you know, if you have somebody in particular who's having an issue, of course reach out to us, we'd like to be able to talk to them about it.

But we are trying to make this work as

best we can within the existing law.

SENATOR RAMOS: Thank you.

I wanted to also ask about unemployment overpayments. Many claimants have been issued notices that they have to pay back federal benefits which they've received due to mistakes that the DOL made, not the claimants. There's supposed to be a process where claimants can apply for a waiver, but that application is not yet available.

When will the waiver application be made available for workers here in New York?

COMMISSIONER REARDON: We are working on that waiver as we speak.

I should note that overpayments -- there's a federal regulation that requires all federal monies that have been overpaid, whether through an intentional action or an unintentional mistake, has to be repaid to the federal government. We can't -- you know, we are working within those guidelines from the feds.

SENATOR RAMOS: So when -- so when?

COMMISSIONER REARDON: We are developing the waiver right now, but we also send out these -- we've sent out these overpayment statements frequently.

SENATOR RAMOS: Okay. All right. I'm looking forward to it. I'll stay on top of it.

I've also heard from my constituents that have been trying for weeks and in some cases even months to sign up for unemployment benefits but have had problems receiving it for various reasons. What has the state done since the beginning of the pandemic to modernize and speed up the process of filing for unemployment? What's the average wait time about now? And what other changes are you looking to make in order to improve the efficiency of your system?

COMMISSIONER REARDON: So that is a great question. And as you know, at the beginning of this pandemic we were crushed by the millions, literally millions of claims that came in within three weeks. To date, we have paid out $65 billion in benefits to over

4 million New Yorkers. And we are very proud of that number.

I know to the person who's struggling to get their correct monetary determination that remains to be a problem. But we have increased all of our technology.

As I said in my opening statement, we are now using chatbots in I think nine different languages to help people understand the frequently asked questions.

We've improved our IVR system so that we'll look at the date of the claim. If you have an old claim, you'll get moved to the front of the line. It directs people to the appropriate agents for the kinds of questions they ask. We have other technology that's being developed -- dashboards for our agents. It used to be that because it's a mainframe, an agent, in order to search an individual's work history, which is why it takes so long, would have to go into the mainframe and manipulate it manually -- I mean, on a keyboard. But it's a black screen. It takes forever. So we are updating that.

We've got bots. We've got new -- we're developing a new single-service frame for all the telephone operators to work from. As you can imagine, to say that it's building the airplane while you're flying it doesn't quite touch how crazy --

SENATOR RAMOS: That's how government works.

COMMISSIONER REARDON: Yes. And in a pandemic, it's a very difficult thing to do.

SENATOR RAMOS: Indeed. Well, I only have a little less than three minutes, so I want to ask you one more on this round, on unemployment.

So between state UI and federal benefits, claimants can currently receive up to 70 weeks of benefits. Those ineligible may be eligible for PUA, for up to 57 weeks. Are you aware that there are thousands of unemployment claimants who have been improperly put into PUA when they are actually eligible for New York State Unemployment Insurance? What's the DOL doing to deal with this problem, given that

claimants could be losing up to 13 weeks of benefits?

COMMISSIONER REARDON: We have a system if somebody wants to dispute either the amount of their benefit or the way that their benefit is assigned. They can dispute it and if it doesn't work, they can ask for a hearing. That is a standard process, and everybody is free to go through it.

SENATOR RAMOS: All right. I guess I have time for one more.

What's the DOL doing to plan for these large numbers of reapplications -- you know, I'm thinking about the benefit year expiring in the beginning of March. All those claimants will need to reapply for the benefits at that time. What's the DOL doing to plan for these large numbers of reapplications, given what happened with the computer system crashing at the beginning of the pandemic in March and then in April again?

COMMISSIONER REARDON: Yes. Well, it's actually --

SENATOR RAMOS: Or is the computer going to crash again now that everybody's going to have to reapply?

COMMISSIONER REARDON: That's a wonderful question. One of the things we did was improve the entryway into the system so it's now on the Google Cloud, which can scale up infinitely.

One of the reasons the mainframe crashed is it could only handle so much traffic at a time; that's what a mainframe does. So we've already resolved that particular issue.

We are working on other tech fixes because we are painfully aware of these deadlines. We are also very hopeful that the Biden administration will pass another CARES Act or some other version that will extend -- we're hearing it might extend it to September. So all of this is being done at the same time.

PUA people don't need to reapply; they are seamlessly going into their extended benefits. If your year ends, then you have

to reapply. But, you know, we are looking at all of this.

What has been happening, and it happened in the recession in 2008-2009, the federal government watches the economy and they decide people will still need benefits for X period of time, and they extend the benefits. Ultimately, in 2008-2009, it was 99 weeks of unemployment. So we are watching this carefully to make sure to see what happens. We are very hopeful that they will pass the law that they're looking at right now, which would extend benefits into September.

SENATOR RAMOS: All right. Well, thank you, Commissioner.

And Chair Krueger, sign me up for a second round if it's available. Thank you.

COMMISSIONER REARDON: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Second rounds are available to chairs.

Assembly.

CHAIRWOMAN WEINSTEIN: And we go to our Labor chair, Assemblywoman Latoya Joyner.

ASSEMBLYWOMAN JOYNER: Okay, thank you. And good afternoon, Commissioner. Good to see you.

COMMISSIONER REARDON: Good afternoon. Nice to see you.

ASSEMBLYWOMAN JOYNER: I want to thank everybody for participating in today's budget hearing. As we all know, 2020 was a difficult year for everyone, including all New Yorkers, and has left scars on our economy that have yet to fully heal.

I also want to echo the sentiments that were previously raised. Many of my constituents, you know, faced difficulties accessing the filing system, many still, you know, without the ability to get the funding that they're owed from March. So I'm also echoing that, you know, DOL -- we love the partnership of stepping up to resolve these claims in a very timely manner.

My first question is regarding the UI unemployment benefits. We're facing a historic unemployment spike, as you know, with New York borrowing $10 billion from the

federal government. Do you know what employers should expect their maximum rate should go up by as a result of the state's negative balance in the UI trust fund?

COMMISSIONER REARDON: So first I want to congratulate the Legislature for working with us after the 2009 recession, because you passed UI reform, which was very, very important in strengthening the trust fund.

So we came into this pandemic with a $2.6 billion balance in the trust fund, which at the time, of course, was thought to be very healthy. Then the pandemic happened and then we had to start borrowing eventually.

Forty-seven percent of the states are currently borrowing or have put in the paperwork to borrow, so we're hardly alone in that piece of it. We have been fortunate, the federal government last year in the CARES Act, the Congress allowed the interest to be waived on these loans, so that helped businesses.

And I should point out that three-quarters of the $65 billion being paid

out, of course, is federal funds. So that does not fall on New York State employers at all.

We are looking, we're getting ready to do next year's rates on unemployment. My recent order to alleviate the charges for last year for pandemic unemployment against the employers will be very helpful. We understand that many businesses had no choice but to close, so they weren't forcing their workers out into unemployment, it happened to all of them. So there will not be a charge for pandemic unemployment the way there would have been under normal unemployment.

The rates will go up because there is, you know, this loan balance. But we don't know what the amount will be yet, we're still working on it. And we're very hopeful that the Biden administration will help with either eliminating the interest or, more importantly, eliminating some, at least, of this burden for all the states.

ASSEMBLYWOMAN JOYNER: Okay, and that's the follow-up question regarding the

interest assessment surcharges. Should employers expect to pay that as a one-time payment at the end of the year, will it be done quarterly? What arrangement do you foresee at this time?

COMMISSIONER REARDON: I really don't know at this point, to be honest. I'd have to get back to you on that.

ASSEMBLYWOMAN JOYNER: Okay. And then I also want to echo what you said in terms of being on the record of, you know, asking the federal government to provide total forgiveness of all expenses during this time related to the pandemic.

My other question is regarding workforce development. This budget provides for 50 million for COVID-19 recovery workforce -- the Recovery Workforce Initiative. Can you explain a little bit more about this?

It sounds like a very great idea, but, you know, we're always curious about the details. So basically, what's the source of the revenue for this program? How will it be

distributed? And how can people participate in this new initiative?

COMMISSIONER REARDON: So this program is actually being run by the Governor's Office of Workforce Development on the Executive Chamber level. It's a relatively new office from several years ago.

And I should point out that workforce development, while we like to claim at the Department of Labor that it's all ours, it isn't really. There are other pieces of agencies that also do workforce development. And we depend on all of our partners to do a good job for everybody in the state.

The Governor's Office actually is the coordinator of all of these programs. So ESD works with them, DOL works with them, other places -- you know, OCFS has a program, OTDA has a program. So we all work together, and it's more coordinated that way. So it's great.

We often -- the role that the DOL often plays in these kinds of programs is we're a connector. We have 4 million people

that are in our system from unemployment. They are all people looking for work, potentially -- now some of them have probably gone back to work. But we have all of their information. So we are great resource as these programs begin to roll out. As companies say, I'm opening this kind of company, I need workers with these kinds of skills, we can look in our talent bank and assess who do we have in that region who has skills or skills-adjacent that, with a little bit of training, could be ready for those jobs.

So we have a lot of on the ground -- boots on the ground work that we do in these kinds of programs. This is a very large program, obviously, and it is still -- the details are still being worked out. It's very exciting. You know, we understand intimately what it's like to have people on unemployment, and what we really want to do, along with all of our partners in the state and in the communities, is make sure they get training that they need and they get

connected to good family-sustaining jobs.

ASSEMBLYWOMAN JOYNER: Right, thank you. And we really would appreciate more details on this.

You know, there's been other initiatives that the Governor has proposed, such as in 2018 this new Office of Workforce Development, which was for $175 million, for the Workforce Innovation and Opportunity Act.

You know, I just would like more clarification of what are these initiatives currently doing to address the need to help rebuild our economy, especially with our retraining folks to get back into the workforce. Especially now, during this COVID-19, everybody has had to pivot, so how have these initiatives been stepping up to the plate during this time.

COMMISSIONER REARDON: Right. So, you know, with a lot of the workforce development grants that we do, they're across the state, they're often retraining or up-skilling for workers. Sometimes it's incumbent workers, sometimes it's new workers. And in some of

those cases with WIOA, we are actually the authority that takes the federal funds from the federal government and approves it, you know, for a local program.

They're extremely varied. Many of them are very local. But they're great opportunities for communities to come together around their needs.

I'd be happy to have, you know, a more detailed conversation, particularly about what your district is doing, because it's very exciting work. Even through the pandemic, these people did not stop thinking about how can we retrain people, how can we put people back to work.

One of the great things for us with the new virtual services that we're doing, we're able to work with our customers on the phone and on the Web. We have virtual Career Fairs up now, and soon we'll have a Virtual Career Center available. And that's going to be able to give people a lot more robust support. They will never replace our highly valued and highly skilled and trained Career

Center workers, but it will free them from perhaps more monotonous work and allow them to spend more time working directly with the customers when we can gather again face-to-face.

ASSEMBLYWOMAN JOYNER: So I'm sure I join with many of my colleagues in wanting to see how this is showing up in each of our districts.

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

ASSEMBLYWOMAN JOYNER: So with the federal CARES funding, how much has the agency received? And what has been done with the funding?

COMMISSIONER REARDON: So the CARES Act comes to the DOL in lots of different ways. We have five new federal Unemployment Insurance benefits that were authorized by the CARES Act, so Pandemic Unemployment, PUA, Extended Benefits, which was paid for by the federal government. The Pandemic Unemployment Compensation was paid for. Lost Wages was a short program that the Trump

administration ran of $300 a week; that was late August, early September. FPUC, which was the $600 a week that everybody got until it ended in July, and now the $300 that's been reauthorized.

So a lot of the CARES Act money comes to us through the Unemployment Insurance program, and then of course we get administrative money on top of that.

ASSEMBLYWOMAN JOYNER: All right. One last question with this round.

So the Executive Budget is proposing to require all employees up to four hours paid leave to receive vaccine injections. Some companies, like Instacart, have been offering stipends to help offset wage loss during this time to go and get vaccines. How does the department plan to encourage other companies to offer similar incentives?

COMMISSIONER REARDON: You know, I hadn't really thought about that in particular to this instance, but of course we work all the time with employers, giving them support on COVID issues. We communicate with

them constantly. There's been -- at the beginning there was a lot of confusion about how do I make my place safe for people to work in, what are the rules, what are the leave rules.

So we can certainly talk to them about that as well.

ASSEMBLYWOMAN JOYNER: Okay, thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

We go to the Senate.

CHAIRWOMAN KRUEGER: Thank you very much. And we have our chair of Civil Service, Andrew Gounardes, but he has five minutes for this commissioner.

SENATOR GOUNARDES: Great. Thank you very much, Senator Krueger.

Hi, Commissioner. How are you? A lot of my questions were already asked, but I do have a couple of quick things I wanted to touch on.

Number one, following up on the Assemblywoman's questions about -- and your comments about workplace safety and working

with employers. Can you tell us how many complaints the Department of Labor received over the last year about workplace safety as it relates to COVID regulations and guidelines, through your website?

COMMISSIONER REARDON: We received over 36,500 complaints on the COVID hotline. And I'm very happy to say that approximately 80 percent of those complaints were resolved with compliance.

Particularly at the beginning, as you can imagine, there was a lot of confusion about can I stay open, should I close, what kinds of protections do I have to provide, can people not come in if they don't feel safe. So we did a lot of work with employers and explained a lot of the new regulations. And for the most part, as you can see, over 80 percent of them complied.

You know, I think most employers want to have a safe workplace. They don't want to get sick, they don't want their customers to get sick, and they certainly don't want to lose their employees.

For the employers who were recalcitrant and refused to adapt to the new rules, we would refer them to county or local authorities who have legal opportunities to enforce these rules. But over 80 percent of them were good players and happy to have the help.

SENATOR GOUNARDES: Great, thank you. And could you give us a sense of those complaints, how many were, you know, in the first, let's say, three months of the pandemic, how many were in the last three months? Do you have any of that --

COMMISSIONER REARDON: I don't have that here. I could find it for you. I would be willing to bet that there were more in the first three months than there were later. But, you know, let's get you a number.

SENATOR GOUNARDES: All right, that would be great, just to see how people were complying as you guys were preparing. Long-term, we want to make sure that people are staying vigilant. And, you know, I know that that's the source of some of the

legislation that we are already working on in the Legislature to ensure workplace safety and protections moving forward.

Can you tell me, how many of your department's employees have been brought back to work? Are they all remote? Are they back in person? Is there a mix? Can you give us a sense?

COMMISSIONER REARDON: So at the beginning the majority, the overwhelming majority of DOL workers worked remotely. We were very fortunate because we had already piloted a remote working program so that we had some of the -- we didn't have all of it, we had some of the laptops, the phones and all of that available. And some of our workers already knew how to do it. And we had a plan.

So we were able to roll that out relatively -- relatively easy. And a lot of people have remained remote for a long time. People are beginning to come back into the building, often for just one day a week, to check in with their group and, you know,

check in with their supervisors. We have -- we have employees who have always worked in the building. I have been physically in Building 12 in Albany since March; I go home on the weekends. But I and my senior staff have all been here.

And we take incredible precautions: masks, hand washing stations. We have a -- everybody -- if you're coming into the building, you must -- even if you're a visitor, you have to fill out the questionnaire, there's a temperature station.

And we tell all of our workers, please, if you do not feel well, don't come to work. Because it's not good for you and it's not good for the rest of us. And for the most part, people are really good about it.

They -- you know, it is -- Building 12 and New York City, of course, are our two largest offices, but we have 96 Career Centers across the state. Those Career Centers are not going to open for a while. Some of them have been open for people to

come in and do back-office work, but we're not going to open to the public until we know it's safe to gather.

SENATOR GOUNARDES: Great. If you can just give us a general sense -- I understand that it's a fluctuating number. You know, is it 15 percent of employees have come back, is it 85 percent? You know, even if it's one day a week, two days a week. I'm just curious to see -- you know, as a lot of government agencies have announced plans to return back to work, I'm curious to see where you're at with your workforce.

COMMISSIONER REARDON: You know, I'd have to get you that number. I don't actually know what the percentage is. You know, anecdotally I know that there are more people in Building 12 now than there were two months ago, on a rotating basis, but I don't -- I'll get you a number.

SENATOR GOUNARDES: Sure, great.

And just the last question before my time expires, last year we passed and the Governor signed Chapter 168, which requires

all public agencies to put forth workforce safety plans that are made publicly available, in coordination with, you know, employee representatives. Can you give us an update -- and those are supposed to be done by April 1st of this year.

Can you give us a sense as to where the department's plans are in the planning process and whether --

COMMISSIONER REARDON: So --

SENATOR GOUNARDES: -- you'll meet the April 1st deadline.

COMMISSIONER REARDON: The acronym is COOP, and we are all over it. I think we have submitted it to our deputy secretary. If she doesn't have it now, she'll have it soon. It's an important thing to do.

SENATOR GOUNARDES: Great. Great, thank you.

CHAIRWOMAN KRUEGER: Okay, thank you very much. Assembly?

CHAIRWOMAN WEINSTEIN: We go to, actually, for three minutes, Assemblyman Schmitt.

CHAIRWOMAN KRUEGER: And as he's turning on his mic, we've been joined by Senator Tedisco as well. Thank you.

ASSEMBLYMAN SCHMITT: Thank you, Chairwoman. Thank you, Commissioner, for making the time for us today. Sorry, we're juggling several Zooms at once here.

COMMISSIONER REARDON: I understand.

ASSEMBLYMAN SCHMITT: I appreciate our conversation at the beginning of the pandemic with the concern a lot of my constituents had, and I know you and your employees have been overworked with the influx that none of us were expecting.

I had a couple of questions. Mainly, I've read recently about California having massive issues with pandemic UI fraud, over $11 billion confirmed, over $19 billion suspected. What are the numbers that we're concerned with here in New York when it comes to that?

COMMISSIONER REARDON: So let me just give a little bit of background on this. There's always fraud in the UI system.

Usually it's more home-grown, somebody files for 10 people at their address. It's relatively easy to find. And in the old UI system, you had to have income that we could see. So, you know, your employer had to register your wages, we could look at it, we could -- you know, it was very, very transparent. And fraud was much easier to find.

With Pandemic Unemployment Insurance, all you had to do for PUA was to self-attest, I am -- basically, I am eligible for this insurance, and to make it very simple, you would get it. We didn't have a lot of the doors that you had to go through.

The fraudsters immediately figured this out. Plus, I should point out, the FPUC payment of $600 a week, plus if you could get the top 504, you could pull in 1104 a week in one fraudulent claim. So there were international fraud crime syndicates that have come into this market, and they have been very smart about it, they went into the Dark Web and they bought people's identity,

down to your last two employers. They had identity that you could use for a straight-up UI claim. So it was a very big problem.

We have -- you know, we have worked very hard with this. And to be very clear, at the beginning the CARES Act was signed March 28th, I think. The very first federal guidance for how to administer it didn't come until April 7th --

ASSEMBLYMAN SCHMITT: I'm sorry to interrupt, I've just run out of time and I want to make sure I get to the --

COMMISSIONER REARDON: Oh, sorry {inaudible overtalk}.

ASSEMBLYMAN SCHMITT: Do you have a -- I know -- do you have a rough estimate of --

COMMISSIONER REARDON: $9.5 billion prevented.

ASSEMBLYMAN SCHMITT: Prevented. Do you know how much are you still concerned with?

COMMISSIONER REARDON: We -- that's kind of a rolling number. We've got some great new technology that's coming in that's

going to help us even more. But we do know 9.5 prevented.

ASSEMBLYMAN SCHMITT: Prevented. And when are you prepared to release how much that wasn't prevented, like these other states -- Ohio, California, Kansas --

COMMISSIONER REARDON: Yeah, I'm going to have to see what we've got. Remember, this is $65 billion went out the door, so it's a remarkably small amount, considering. But yes.

ASSEMBLYMAN SCHMITT: So what am I supposed to tell my constituents if they start getting 1099s that are fraudulent --

COMMISSIONER REARDON: If it's fraudulent, they call us. Absolutely, let us know.

ASSEMBLYMAN SCHMITT: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Next is Senator Borrello.

George, are you there?

SENATOR BORRELLO: Can you hear me? I can't turn my video on, but --

CHAIRWOMAN KRUEGER: Okay, we can hear

you.

SENATOR BORRELLO: Okay, hello.

COMMISSIONER REARDON: Hi.

CHAIRWOMAN KRUEGER: There you are.

COMMISSIONER REARDON: There you are.

SENATOR BORRELLO: All right. Yes, thank you, Commissioner. Thanks for being here today.

I will get right to my question. First of all, I'm certainly glad to see that you went to calculating unemployment based on hours and not days. That's a big help to business owners as well as people that are partially unemployed.

COMMISSIONER REARDON: You're welcome.

SENATOR BORRELLO: (Laughing.) But when it comes to paid sick leave, this is kind of the same situation. You have employers who employ people that are part-time, you have seasonal businesses and things like that, but yet the threshold is based strictly on the number of employees.

So why would you not apply the same principle and go to FTEs, full-time

equivalents, versus just the number of people employed? Because I've heard this from many small businesses, not-for-profits, you know, companies that are right now hanging on by a thread, that are now going to be unduly burdened with this based on the number of employees and not based on FTEs.

COMMISSIONER REARDON: So it's a good question. I just want to point out, and I mean this in the best possible way, I only enforce the laws. So, you know, I'm not a legislator. I'm happy to enforce whatever laws that you and the Governor pass. But, you know, I'm limited by what the laws say.

SENATOR BORRELLO: Well, you know, when we discussed this originally when it was passed, you know, there was this -- we were told that this would be something that the DOL could fix, essentially, quote, unquote.

And I realize that there are often vagaries in these laws that -- gray areas. But in this particular case, would you not agree that, you know, someone who has a hundred part-time employees is obviously

going to be unfairly burdened, compared to someone who has 100 full-time employees or a seasonal operation that doesn't operate year-round?

COMMISSIONER REARDON: So, you know, it's a pretty general statement. I'd have to actually look at more details to engage on this. But, you know, we could certainly have that conversation offline.

SENATOR BORRELLO: All right. So you're saying that in order to change this, it needs to be changed in the law, the Legislature would have to take an action in order to level the playing field for our small businesses.

COMMISSIONER REARDON: I think so.

SENATOR BORRELLO: Okay. Well, that's my question. And on the unemployment claims, since I have a few seconds left here, I will say that, you know, like everybody else we were inundated. And I know that you all worked very hard to try and address people as quickly as possible, people calling from their homes, on their cellphones, on the

weekends, at night. So trust me, we were at the tip of the spear dealing with people that were caught up in this system that had nowhere to go that were, you know, worried about where their next -- you know, really where their next meal was going to come from, in some cases.

So I know it was awfully difficult to deal with, and I appreciate the upgrades that you've made. Hopefully this will -- we'll never have to deal with this again.

COMMISSIONER REARDON: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

SENATOR BORRELLO: At 25 seconds.

CHAIRWOMAN KRUEGER: Thank you.

CHAIRWOMAN WEINSTEIN: We've been joined by Assemblyman De La Rosa, Assemblymember Giglio, Assemblyman Bronson, Assemblymember Jo Anne Simon -- I'm not sure if I mentioned her already.

And we go to Assemblyman Ra for five minutes.

ASSEMBLYMAN RA: Thank you, Chairwoman. Commissioner, good afternoon.

I'd be remiss if I didn't start by just saying thank you to your staff. I think at the height of this, like all of our offices, we were probably communicating with the Department of Labor more than our own families --

COMMISSIONER REARDON: Yes.

ASSEMBLYMAN RA: -- on behalf of our constituents. So I know it was very difficult circumstances, and I thank them for their assistance over that time.

I just wanted to follow-up with regard to the Unemployment Insurance, and specifically the Title XII advances. I know you mentioned that, you know, the solvency coming in was good. But am I correct there was a report that talked about our solvency level and there's a threshold that would be required to allow the state to -- when they have to take those types of loans, to do so without interest?

Is there any update on that solvency level? I think it was about 0.36 and it needs to be 1 percent.

COMMISSIONER REARDON: I don't know. Let me find out for you. I'm not familiar with that.

ASSEMBLYMAN RA: Okay. I'd appreciate that. Obviously that is -- as we're trying to repay that, you know, it does have the potential to have an impact on our businesses.

The other thing I wanted to just ask a little bit about was, you know, different measures were obviously taken to deal with what was really an emergency situation to get claims processed. And I know there were partnerships formed with KeyBank.

And some concerns have been raised about, you know, the kind of regional nature of that bank and the lack of facilities, particularly downstate and in New York City. So I'm just wondering if -- you know, is the department looking at other types of partnerships that -- you know, to expand the network to banks that might be more accessible to people downstate?

COMMISSIONER REARDON: So a couple of

things. First of all, yes, KeyBank is a state vendor, it wasn't just us. They're on a state contract. And yes, we are reexamining that.

But I want to correct -- this was a news story that was out there, and we had trouble with -- I think it was early in the summer, they were running a number of stories saying there were long lines of people in New York City on 22nd Street because it was the only KeyBank where they could get their money. Not true. Patently not true.

There are over a thousand ATMs across the state, many of them in New York City, where our customers can retrieve their money without any charge. And for whatever reason, this news outlet decided to continue to pump out that story for probably two weeks. And it was difficult, we had people assaulting us about it. And I said, you know, we -- the list of, you know, the vendors was -- the ATMs was on KeyBank's website and it was on our website.

But this is an example of, you know,

what happened during the pandemic. People panicked, they read something somewhere on Twitter or Facebook or, in this case, in the newspaper, and they assumed that that was the truth, and they lined up for hours in front of this bank. Which was totally unnecessary.

That said, we are looking at other vendors for our business, but KeyBank is a state vendor.

ASSEMBLYMAN RA: Thank you. And I appreciate you correcting, you know, the public record on that situation. That's good to hear.

The other thing, obviously, that had to be done was, you know, bringing in some new public or vendors and things of that nature to process claims. Do you have any estimate on what that looked like in terms of how many people had to be brought in -- different companies, vendors, individuals?

COMMISSIONER REARDON: Sure. So when we first got crushed by the wave, the first thing we did was to pull other workers from DOL from other workstations and bring them

into the UI system and train them to deliver the services. Then state workers came over to assist us in that effort. I think at one point we had 3,000 state workers working with us. They all had to be trained, because it's not a simple, you know -- it's not a simple thing to do.

Eventually we realized we were not staffing our way out of this and we had to get third-party vendors. We had, I think, four vendors, and I think at the height in August we had I believe 2800 vendors. But we are now beginning to reduce, we're down to 1300.

And we are -- I'm very happy to say, now, because of federal funding, we are able to begin to hire hourly and permanent New York State staff to come in and work with us, which is what we've always wanted to do. They will be trained for these jobs, they will be, you know, in our system, and we can reduce the -- if not get rid of completely -- the vendors that we had to rely on.

But it was simply a numbers game.

There was no way we could do it without them.

ASSEMBLYMAN RA: Okay, thank you, Commissioner.

COMMISSIONER REARDON: Thank you.

CHAIRWOMAN KRUEGER: Thank you very much. Our next speaker is Senator Diane Savino.

CHAIRWOMAN WEINSTEIN: Senator -- Senator Savino, before you go, I just wanted to announce for any members of the Assembly, that session was ending, that if you want to vote as an exception to the party vote that's taking place, you should contact the Majority or Minority Leader as soon as possible. Thank you.

And now to the Senate. Thank you, Liz.

CHAIRWOMAN KRUEGER: Thank you.

Senator Diane Savino.

SENATOR SAVINO: Thank you, Senator Krueger. Good to see you, Commissioner.

So I'm not going to ask you the last four questions that Assemblyman Ra asked you because I got the answers I wanted to those

questions. I do want to go back, though, to -- first of all, I want to thank you for all of your efforts to all of our constituents across the state in an extraordinarily difficult time during the pandemic and the tremendous strain on the unemployment system. You know, you mentioned your ability to avoid the unnecessary fraud.

I participated in a government tech conference just last month, and we were astounded to find out that the State of California was unable to avoid that. They paid out $12 billion in fraudulent claims. The State of Washington, $650 million. Even the little State of Montana, $10 million. So the fact that we were able to do so I think is a testament to you and your staff.

COMMISSIONER REARDON: Thank you.

SENATOR SAVINO: But I am a little concerned as we go forward because you had to pull so many people from so many other places, and we know we're going to face this again. We were able to kind of ramp up with, you know, the Google Cloud, but we still have

a lot of challenges on the tech side. So I'm curious as to all of the people who are working remotely.

Were you able to provide them with the technology from the department, or are they utilizing their own equipment? Because that could be a concern with respect to cybersecurity issues.

COMMISSIONER REARDON: Right.

SENATOR SAVINO: There were other agencies, and I'm not going to mention them, in the City of New York, where people are utilizing their own equipment and taking in personal information. We've seen ransomware attacks and cybersecurity leaks all across city and state agencies, and I'm hoping to avoid that going forward. So can you speak about that briefly.

COMMISSIONER REARDON: Sure.

SENATOR SAVINO: And then the final thing I'd like you to address is how are we doing on wage-theft claims? And I'll leave it at that.

COMMISSIONER REARDON: I favor it.

So first of all, they all had state equipment and they all worked on safe, encrypted systems. So -- because we were very aware of that. The last thing you want to do -- UI has very strong federal guidelines for, you know, confidentiality. Everybody takes confidentiality training, we have to make sure everybody's information is secure. So they had our equipment from jump, which was great. And, you know, it made it much easier, frankly.

There are still a lot of tech things that we are actually working on. We have more bots. I know more about bots in the last 10 months than I knew probably my entire life. They're great, I love them, but we're employing more and more of them.

We did have the Google Cloud, so that can scale out to handle the incoming. We had -- you know, the IVR now is able to figure out what agent you need to talk to. We have an excellent communication program with our claimants that we never had before, between GovDelivery and DocuSign, we are able

to help them achieve their needs without ever having to talk to a human being at all, which is really remarkable.

And the GovDelivery we send out -- we sent out, I think, 58 million texts and emails saying this is where you are in the process, this is what you need to do next week, so that people aren't sitting in the dark, which is what they used to do.

SENATOR SAVINO: I think I'm out of time. So if you could get back to me on wage theft, we can talk about it offline, I'd really appreciate it --

(Overtalk.)

COMMISSIONER REARDON: Absolutely. Thank you.

SENATOR SAVINO: Thank you. Great to see you.

COMMISSIONER REARDON: Nice to see you.

CHAIRWOMAN KRUEGER: Thank you, Senator.

Assemblymember.

CHAIRWOMAN WEINSTEIN: We go to

Assemblyman Steck for three minutes.

ASSEMBLYMAN STECK: I've got two computers going, one for session and one for this hearing.

(Laughter.)

CHAIRWOMAN WEINSTEIN: Okay, well, log onto the right one.

ASSEMBLYMAN STECK: No, I'm logged on, but it's the voice and the video.

So first of all, I want to thank the commissioner for her frequent visits to my district. Always a pleasure to see you when we were not in the pandemic.

And also, you know, I know that you're working very hard to address these issues with the unemployment system. I want to say thank you also to your staff, because our office's experience, though there was a lot of hard work involved, we did find that the employees that we dealt with were very, very helpful.

COMMISSIONER REARDON: Thank you.

ASSEMBLYMAN STECK: I just have one question, and that relates to the renewal of

a program which seemed along the lines of what you were talking about in your opening remarks, and that's the New York State Shared Work Program, which allows employers to retain their employees during times of temporary business shutdowns by reducing an employee's hours and earnings, but avoiding layoffs. This allows employees to receive partial Unemployment Insurance benefits while continuing to work at reduced hours.

I just want to express my support for renewing that program.

COMMISSIONER REARDON: So it doesn't really go away. We've had it for a long time. The great thing is when the pandemic hit and everything went kerflooey, we realized that -- that's a technical term -- we realized that shared work was going to be very, very key to getting people back to work. So we made sure that we got everybody online using it -- since they used to use paper, imagine. So we made it online, we digitized it, we sent out lots of information to our employers. And there's a very robust

employment, pardon the expression, of shared work now. It's a great program.

It doesn't expire; it's 26 weeks of shared work coverage right now. And then, you know, they have to either go on regular unemployment or whatever. But, you know, it's still a program, and it is a great program. I -- you know, there are a lot of employers who should use it. Now that they're coming back in -- particularly like restaurants that have not been able to be open because of the pandemic, you know, now they can come back and use the shared-work program to fluctuate as they get their feet back under them.

But thank you. It is a terrific program. We're really very proud of it. And New York State I think has one of the highest usages of shared work in the country.

ASSEMBLYMAN STECK: Okay. Well, thank you very much for that. And we did get some concerns from employers that they had a little bit of difficulty getting this done. And I think, based on my review of that

letter and your comments, it does seem that it's ongoing and it may have been just because it's now computerized, it may have been just part and parcel of the overall influx of the tremendous amount of claims that you were handling.

So thank you for your support for that program.

COMMISSIONER REARDON: Sure. And if you have an individual case that has a particular problem, of course reach out to me.

ASSEMBLYMAN STECK: Okay, we will do that. Thank you.

COMMISSIONER REARDON: Okay. Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

We go to the Senate now.

CHAIRWOMAN KRUEGER: Thank you very much.

Senator Pete Harckham, three minutes.

SENATOR HARCKHAM: Thank you very much, Madam Chair. Commissioner, good to see you.

COMMISSIONER REARDON: Thank you.

SENATOR HARCKHAM: Let me start my video. There we go.

COMMISSIONER REARDON: Good to see you.

(Laughter.)

SENATOR HARCKHAM: Good to be seen.

I join my colleagues in complimenting you and your team. It was a very rough year. It wasn't always pretty. But, you know, once we got a direct line into your office, we were able to clear a lot of cases from our office. So thank you very much for that.

I want to ask you something a little bit different. You know, because of the pandemic, it's been estimated that a quarter to a third of our small businesses have been lost. Those are not coming back. Because we've changed the way we do business, entire job categories and industries may not be coming back. So we hear talk now about -- and this -- we heard it back in the last recession, about the permanently unemployed. You know, people who used to have good

skills, good jobs, and they've just gone away and now they're permanently unemployed.

What's your strategy going forward to deal with the folks who have been severely dislocated due to the pandemic?

COMMISSIONER REARDON: It's an excellent question. And it's something that we have been discussing since probably the second or third month of the pandemic, because I realized pretty quickly, with the crush of economies and the sectors that were really being hit hard -- and some of them had been having struggles before the pandemic -- that this was going to require some retooling of workers.

Also we know that the jobs won't necessarily go away, but they may become more virtual, which means you have to be more digitally savvy.

So we have been having very deep discussions on the workforce development side of our house about how best to serve those customers. And again, the Virtual Career Center is going to be key to this. The

Virtual Career Center is going to have a lot of very robust AI, and it's going to be able to connect an individual worker, look at their work experience, and through AI begin to sift through other kinds of work and say, you have these skills, and yet there are these kinds of jobs that are open to you -- and some of them it's a direct fit, and some of it's if you do these kinds of trainings, you would really be eligible for that.

We're also going to work very closely with all of the REDCs and the businesses to understand what their needs are in the region. Because I don't want to do just a general New York State approach, I want to do, you know, town by town or region by region. There's a lot of focus on up-skilling people. We have the -- we have Coursera, available for free to underemployed and unemployed New Yorkers. This is a free learning platform.

And sometimes it only takes a course or two to really bring you up to a new level. Maybe you want to go into a new area of work

but you have deficiencies in math. You can take a math course on Coursera for free and then you'll be able to qualify.

Or maybe you want to go back to college to a two- or four-year school, and you need a couple of remedial classes. Coursera can do that for free, and then we could connect you with the training programs that you need.

We're also working very closely with SUNY and CUNY. SUNY has a new SUNY Online program that's also going to be free for certain workers.

And we're all going to work together to make sure that as we come out of the pandemic, we're not going to have permanently unemployed people unless that's what they choose to be. We want everybody to be able to find a good job in the new economy, and that means people are going to have to have some retraining, and we want to be a part of that.

SENATOR HARCKHAM: Thank you. Our time is up. But going forward, I'd love to

discuss with you offline how we get this information out to the public and to our constituents.

COMMISSIONER REARDON: Yes, I'd love to have that conversation.

SENATOR HARCKHAM: Terrific. Thank you very much.

COMMISSIONER REARDON: Thank you.

CHAIRWOMAN KRUEGER: Thank you, Senator. Assemblywoman.

CHAIRWOMAN WEINSTEIN: Yes, thank you. We go to Assemblyman DeStefano for three minutes.

ASSEMBLYMAN DeSTEFANO: Good afternoon, Commissioner.

The last time I spoke with you was over the summer when we were talking about our unemployment problems in the state and the inundation in our district offices. One of the questions I had is I remember when we were hiring people to handle the overflow and things like that. Do you have an estimate of the number of people that were hired from outside of the state and why these jobs

weren't offered to people who were unemployed in New York?

COMMISSIONER REARDON: So I don't know the exact numbers, because of course these are third-party vendors.

We always want people to hire within the state, and we did have a couple of vendors who are located in New York State, so that was a much better opportunity. But frankly, at the height of the pandemic we did not have the ability to say that you must hire within New York State, because it would have taken much longer and then we would have harmed many more people who needed the unemployment.

That said, as I said earlier, we are now at a place where we're going to be able to hire hourlies and permanent people in the DOL, New York residents who will be living and working here, and we will have far less, if any, reliance on the outside vendors. We always saw the vendors as an emergency patch; it was never a permanent solution.

ASSEMBLYMAN DeSTEFANO: Thank you.

Does the department have an estimate of the labor force participation in New York in 2020?

COMMISSIONER REARDON: We do, and I don't have the number in front of me. It might be on the website. We have a lot of labor force information. But I can look at it and get it to you.

ASSEMBLYMAN DeSTEFANO: Thank you.

Does the department have a current estimation of the long-term unemployment, those unemployed for longer than six months, in the state?

COMMISSIONER REARDON: We have a number; I don't have that in front of me. I can get that for you too.

ASSEMBLYMAN DeSTEFANO: Okay. My last question is going to be, is it possible for the department to permanently waive the seven-day waiting period before the first-time unemployment insurance applicants receive their benefit?

COMMISSIONER REARDON: So that's an interesting question. We can look at it

and -- you know, that's a -- it's in the regulation, so that's a conversation.

But let me tell you why that seven-day waiting period is there. It's one of the reasons we have fraud. So the seven-day waiting period gives us time to be able to do some checking to make sure that you're you. And that seven-day period is very important.

I'm not sure if it's in the federal regulation or if it's in the state regulation. I'd have to look at it. But it does serve a purpose. And we felt it very strongly when we got rid of it. It caused some unexpected problems within the system.

But we can have that conversation. I have to figure out if it's federal or state regulation that requires it. It might be federal.

ASSEMBLYMAN DeSTEFANO: Okay. My last question. I don't know if it was Senator Savino -- do we have a number of how many people we know of that fraudulently received unemployment benefits from -- during the pandemic?

COMMISSIONER REARDON: The number of total recipients?

ASSEMBLYMAN DeSTEFANO: Right. The ones who actually scammed the system. Do you have --

COMMISSIONER REARDON: Oh. No, I don't have a total number of them. We know that the ones we prevented, the $9.5 billion prevented, was 455,000 cases. But I don't -- that's -- you know, it's -- you know, remember, that's $5.5 billion {sic} was prevented. These are very sophisticated fraudsters.

ASSEMBLYMAN DeSTEFANO: Thank you, Commissioner. My time is up.

CHAIRWOMAN WEINSTEIN: To the Senate.

CHAIRWOMAN KRUEGER: Thank you very much.

Senator Tom O'Mara, five minutes.

SENATOR O'MARA: Thank you.

And thank you for being with us today, Commissioner. We appreciate your testimony and all your hard work throughout the year, which has been a very, very difficult one.

We all understand it's certainly been trying for all of us, so --

COMMISSIONER REARDON: Yes.

SENATOR O'MARA: You've said, you know, we've put out $65 billion so far in unemployment benefits. And just last week, you know, we passed legislation to increase the appropriating authority to $71 billion. Where do we stand as far as paying this back? I know a big portion of that is federal money that -- through the CARES Act that we are not going to be paying back, is my understanding.

But if you can outline for us what that state portion is and what our plan and timeline is for how much that's going to cost us over how long. And is that going to play into the experience rating of businesses on what they have to pay in in coming years?

COMMISSIONER REARDON: So let me start with the experience rating first. I issued an order a month ago, maybe, halting the pandemic-related experience rating for employers in the last year, understanding that the pandemic -- many people didn't

choose to close, they had to close.

So last year, if you had pandemic-related unemployment, that will not count against you and your experience rating will not go up, which is great.

You're also correct, three-quarters of that $65 billion is federal money, and we do not repay it. Which is, frankly, a mitzvah. We do have a loan of $9.5 billion. Last year it was interest-free because of the first CARES Act. We are hoping, we're very hopeful that the Biden administration can waive at least some if not all of the debt for all of the states -- 47 percent of the states have some debt to the federal government right now, and some are higher than ours. So it is a huge problem.

So we're not quite sure what the next year's rate will be because we're still waiting to hear some of this information from the feds and sorting through it. There's no doubt that the rate will go up, but it won't go up as high as we had feared. And we are hoping that the federal government will help

us and keep it as low as possible. It will get paid out over a long time. It won't be -- it's not going to be a hammer the first couple of years. It gets stretched -- it gets socialized out over a pretty long period of time.

SENATOR O'MARA: Are there any recommendations that you have, as commissioner, for what actions we may be able to take as a legislature to lessen that impact over time?

COMMISSIONER REARDON: You know, I'd have to think about it. I don't know. I mean, I was not here when UI reform was done after the last recession. But that probably would be a good place to look to see what fixes were done then, because that really strengthened the system. And it -- you know, it was a very smart piece of legislation. And it -- certainly if we had not had that reform, we'd probably owe double what we owe.

So I would say, just off the top of my head, I would look at that legislation and talk to people who went through the process

and see what the conversation was then.

SENATOR O'MARA: Okay. Thank you very much, Commissioner.

COMMISSIONER REARDON: Sure. Thank you.

CHAIRWOMAN KRUEGER: Thank you. Assemblywoman.

CHAIRWOMAN WEINSTEIN: We have our last Assemblymember, Assemblyman {sic} Giglio, for three minutes.

ASSEMBLYWOMAN GIGLIO: Good afternoon. And my video is not showing -- no, I've got it prompted. So good afternoon, everyone.

So my question pertains to the Farm Laborers Wage Board. In December they decided to lower the threshold for overtime to 40 hours per week through November, awaiting data from the -- awaiting data. I'm wondering if that data has been compiled yet and if any consideration is given to extend keeping the threshold at 40 hours rather than the 60 hours through 2022, just because the farmers have been hurt so significantly this year due of COVID, with the wineries being

closed, the catering halls being closed, the farm-to-table restaurants being closed, and not being able to -- you know, their crops have been destroyed and they haven't been able to prosper.

So I'm wondering if the data has been collected from the hearings in December and whether or not there's any consideration to extend the lowering of the threshold through 2022, or at least past November.

COMMISSIONER REARDON: So we -- I convened the wage board at the order of the act -- I'm happy to do it -- and they met throughout the year. They had five testimony periods, even during the pandemic. They had one real one in-person, and the rest of them -- well, they were all real, but one was in-person, the rest of them were virtual, of course.

And we had a lot of testimony from a lot of the agricultural community, mostly the owners but some workers as well, and their advocates. And then had a couple of sessions where they -- public sessions where they

openly discussed, you know, the information that they had received.

Their recommendation from the three members of the board was to pause at 60 for overtime for farmworkers for a year, at least a year, and to reconvene the wage board no earlier than November 1st of this year and no later than December 15th, and they would reconvene and continue their work. During that time, they will be looking at various factors affecting both the workers and the employers.

One of the reasons they recommended this was because it was felt that the pandemic had really unsettled the workplace, the agricultural community, the marketplace, and they wanted to see more information on all of that.

I will say -- and I said it when it was signed -- the farm laborers fair -- I never get the name right. The Farmworkers Act was excellent, and it extended lots of protections beyond just the overtime protection, and I thank you for it.

Last year was the first year that the farm communities worked with 60 hours of overtime. We will see what happens this year, and they will reconvene the end of this year, hopefully, if that is what we decide here at the Department of Labor -- that was the recommendation. I haven't issued my order yet. The order will be no later than February 19th. But that was the recommendation from the board.

ASSEMBLYWOMAN GIGLIO: Okay. Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Our next questioner is Senator Brad Hoylman.

SENATOR HOYLMAN: Hello. Hi -- hi, Commissioner. Good to see you.

COMMISSIONER REARDON: Hi, good to see you.

SENATOR HOYLMAN: First of all, let me say I have Zoom envy. You have the best resolution of anyone I've seen on Zoom. I think it's because you're a former actor. Just putting that out there.

COMMISSIONER REARDON: Yes (laughing).

SENATOR HOYLMAN: I have a vexing issue with a constituent and their application for Pandemic Unemployment Assistance that I want to just run by you.

She is an artist, a pretty successful one, and -- but obviously has not been able to sell her art during the pandemic. She's an adjunct professor at the Art Students League, like a lot of artists are. That's, you know, a part-time job which she didn't lose. But when she applied for CARES assistance, they went off of her W-2 form for her adjunct professorship rather than her 1099 on her art sales.

Is there anything that can be done? Your staff has been helpful, but I just wanted to raise that.

COMMISSIONER REARDON: Yeah. So -- and you know part of this answer, I can't discuss individual claims.

SENATOR HOYLMAN: Yes.

COMMISSIONER REARDON: And there are --

SENATOR HOYLMAN: I think it's a broad issue involving --

COMMISSIONER REARDON: There's -- she's not the only person in that situation.

In the new CARES Act there is MEUC, the Mixed Earners Unemployment Compensation, and it allows for people in this situation -- it doesn't completely resolve her problem, because there are rules on how UI and PUA interplay. But if you have more than $5,000 of self-employment earnings -- and they really must be self-employment earnings -- in a year, but you are on UI, then you get an extra $100 a week benefit to compensate for this particular problem.

It is a highly complex program, and we are still awaiting guidance from USDOL on how the -- the details of it. But it is there, and it may not -- you know, it may take a bit to get it all worked out, but she'll get all the money -- if she qualifies, she'll get all the money that she's owed under that particular program.

But it is -- you know, PUA never

existed before the CARES Act. And while the CARES Act was done out of the best of intentions and saved millions of people, it had some unintended consequences because PUA and UI are not the same, and there are conflicting guidances. So that's -- she got caught in that.

SENATOR HOYLMAN: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly?

CHAIRWOMAN WEINSTEIN: We do not have anybody else.

CHAIRWOMAN KRUEGER: All right.

Commissioner Reardon, I have just a couple, and then I think that Senator Jessica Ramos has a second round of questions. So I'm definitely not taking the 10 minutes.

When you answered the question before about the number of cases of I guess fictitious unemployment applications, fraudulent, you didn't actually mean there's 456,000 people who actually individually filed fake cases, do you? I mean, is it more bots and other kinds of software stealing

that?

COMMISSIONER REARDON: Oh, you mean what their techniques are? That is a very good question. Some of them may have been done by bots. A lot of them were done by individuals. And it is -- these are highly sophisticated fraudsters.

And, you know, quickly, at the beginning of this we were working on how to prevent fraud and we said, Oh, well, the fraudsters would never actually talk to us. Because they really don't want to talk to us: We're not going to do this thing. They do want to talk to us. They call us and they try to convince us that they're real people.

So yes, 455,000 cases -- I'm going to look at somebody in the room with me. Could that be more than -- is that individual claims or is that individual fraudsters? It's claims, I think.

CHAIRWOMAN KRUEGER: So that's a mind-boggling number of people who --

COMMISSIONER REARDON: And that's just in New York. So imagine --

CHAIRWOMAN KRUEGER: And I understand, I just -- it's amazing that there's that number of people who would even sort of know how to figure out to try to commit DOL fraud. It's inter -- well, it's sad --

COMMISSIONER REARDON: Well, they're international, too. I mean, as they used to say, why do bank robbers rob banks? Because that's where the money is.

CHAIRWOMAN KRUEGER: Fair enough.

And yet on the other side of the coin, when I told you this the other night that I was going to ask you, now we're getting constituents who are being told that they were overpaid by DOL -- not their fault. I'm not even saying your fault. But something was calculated wrong, and so they're getting hit to repay. But they've spent the money. They still are living in a pandemic without work.

So I'm a little confused, because I found an article that said the new federal rules are that you don't even have to collect back the overpayments of PUA anymore.

So can you clarify what New York is trying to collect back? Or is there a change in policy happening?

COMMISSIONER REARDON: So again -- and because there are six different programs now instead of one, it makes it highly complex. But the federal rule is if federal dollars are paid out inappropriately, whether it was on purpose or not, they must be recouped.

There is something in the new CARES Act for forgiveness of some PUA overpayments, but I don't think it's extensive, I think it's limited. I'd have to -- I'll get back to you on that.

We always have an overpayment system that works, because the law says you must legally be entitled to the benefit. So sometimes they misstated their earnings; intentionally or not, you're not legally entitled.

You know, there are a lot of different reasons why this happens. Often it's not that much money. Sometimes it is, you know, a fair amount of money. And, you know, we're

willing to work with people to try to figure out how to handle that.

But this has gone on before the pandemic. The pandemic really -- like everything else, it made it highly complex in a very difficult time.

When we talked the other night, you said you heard that some states were not collecting it until after the pandemic. I asked my UI folks, and that was a new one for them. So I -- and I don't have the answer yet, but we're looking into it.

But I don't -- there is a federal law that says you have to recoup. I don't know that there's a time frame on it.

CHAIRWOMAN KRUEGER: Okay. I appreciate your following up with us.

COMMISSIONER REARDON: Sure.

CHAIRWOMAN KRUEGER: I know some of my constituents were getting bills -- I have one constituent, $12,000 overpayment. Pretty much everything they've gotten over the entire time frame. So -- but nobody was saying they didn't collect it legitimately,

they just -- they'd spent it.

All right, I'm going to pass it on to Senator Ramos, our chair of Labor, for her second round of five minutes.

SENATOR RAMOS: Why, thank you so much, Senator Krueger, the chair of Finance.

I do have a few follow-up questions, and I'm glad the commissioner mentioned the Farmworker Fair Labor Practices Act.

COMMISSIONER REARDON: Yes, thank you. We agreed on this.

SENATOR RAMOS: I did. I did have a few questions about the wage board, and these questions will largely be about wages.

Can you explain a little bit more about how the wage board decided to delay making a decision? When will the wage board reconvene to decide on the issue? And what are the different options that you've explored to deal with the overtime threshold issue?

COMMISSIONER REARDON: So the wage board gives a -- the process -- and I get a little confused in this myself when I talk

about it, because I tend to talk about their recommendation. They make a recommendation to me, and I issue my order. I have not issued my order yet,

But their recommendation was because of COVID and because of the conditions in the economy, that they wanted to pause until -- no earlier than November 1st and no later than December 15th of this year, this wage board would reconvene and continue their work. And during that period they will be gathering information pertinent to this issue. You know, the robustness of the farm economy, the impact on workers' mental and physical health -- all of the things that we consider, you know, going into this. That was their recommendation.

And I want to say -- and you and I have talked about this -- the Farm Laborers Act was really wonderful, and a long time coming. And I thank you and the Governor for committing to this task. It is a difficult place for, you know, the farm community and a difficult place for some of the workers.

We've heard conflicting conversations. But we are going to continue to look at it and study it -- if that's what my decision is. That's what the board wants me to do.

It is -- you know, last year was the first year they paid overtime over 60, which was an interesting experience for both the employers and the employees. And so there's a lot to be looked at in all of that.

SENATOR RAMOS: All right, thank you. I don't want to get stuck on this question because I have less time now.

On the minimum wage you, Commissioner, along with the Department of Budget, will get to decide together whether to increase the upstate minimum wage going forward.

Are we expecting a minimum wage increase upstate this year, maybe by December?

COMMISSIONER REARDON: Well, we -- the DOB issued their findings December 31st, I think was the date. And so the minimum wage went up upstate this year in January. The next time that they look at it, of course, is

the end of this year, and they will do their assessment like they did last year: How robust is the economy, all of that. But it did go up January 1st across the state.

SENATOR RAMOS: All right. And on tipped workers, as of December of 2020, miscellaneous industries like nail salon and car wash workers will receive the minimum wage in addition to any tips they earn. What outreach has the DOL done to inform workers and employers of this change, and what has your strategy been to -- or what will your strategy be to enforce?

COMMISSIONER REARDON: So we do a pretty robust outreach on this. We've got a pretty well developed network, particularly in those industries. We've had a pretty good working relationship, actually, with a lot of the nail salons already for various reasons. And they all received notice of the increase -- I think they actually get new signage to put up in their shops, because they'll have to have signs. So it's there, the workers know it, it's in their languages,

the employers know it, the hotline is there --

SENATOR RAMOS: A lot of workers don't know it. Let me tell you, as a Colombian woman who gets her nails done religiously every two weeks, no, most workers do not know that they should be paid $15 an hour.

COMMISSIONER REARDON: So do me a favor. When you're in the nail salon, see if they have the updated poster.

SENATOR RAMOS: Okay, I'll check. They haven't, yeah.

COMMISSIONER REARDON: So we -- what we tend to do is we work -- there's a rather robust group of advocates who have worked with these industries, and we have worked very closely with them. So I will check back in and see, because they should know.

SENATOR RAMOS: Yeah, no, absolutely.

I didn't think we were going to have -- well, I'll just leave it there. I mean, I can think of so many other questions to ask you, but I'm sure that we will reconvene soon.

It's good to see you, Commissioner. Thank you for all --

COMMISSIONER REARDON: Good to see you.

SENATOR RAMOS: Thank you for your service to workers in New York.

COMMISSIONER REARDON: Thank you very much.

CHAIRWOMAN KRUEGER: Thank you.

And for any legislator who doesn't feel like they have the time to ask all their questions -- because we try to move very fast -- please, if you get us your questions, we can submit them to the commissioners and then we will share the written answers with everyone in both houses.

So thank you. And thank you very much, Commissioner. Oh, wait, I see the Assemblywoman with her hand up, yes.

CHAIRWOMAN WEINSTEIN: Yes, we have our chair, Labor Chair Assemblywoman Joyner has a follow-up question of the commissioner.

ASSEMBLYWOMAN JOYNER: Thank you.

Okay, it's a very quick question. I

wanted an update on the sick leave. Are we having any complaints, questions that the department is aware of regarding the new law?

COMMISSIONER REARDON: The paid sick leave requirements? So, you know, people -- workers started accruing last September, and in January they were able to start using their leave. There have obviously been questions from industry, how does this -- it's not unexpected -- how does this work. We've been doing a lot of outreach, contact with our employer groups.

But so far I think it's going pretty well. I think sometimes people get confused between COVID sick leave and paid sick leave and FMLA, and so we're trying to make sure that all of that is clear.

But again, congratulations to all of you and the Governor for passing this, because this is something that I have advocated for for a long time, and it's great to know that we have it in the State of New York.

ASSEMBLYWOMAN JOYNER: Okay, thank

you, Commissioner, for your time.

CHAIRWOMAN WEINSTEIN: Thank you also, Commissioner.

CHAIRWOMAN KRUEGER: Thank you very much, Commissioner Reardon, for being here with us this evening.

And we're going to call up our next commissioner, Lola Brabham, who's the commissioner of the New York State Department of Civil Service.

COMMISSIONER BRABHAM: Good evening.

CHAIRWOMAN KRUEGER: Good evening.

Oh, and we've also been joined by Senator Roxanne Persaud.

How are you, Commissioner?

COMMISSIONER BRABHAM: Very well. Very well.

Good afternoon, Chairs Krueger, Weinstein, and distinguished members of the Senate Finance and Assembly Ways and Means Committee. My name is Lola Brabham, and it is my privilege to serve as the commissioner for the Department of Civil Service.

I appreciate the opportunity to appear

before you today to comment on Governor Cuomo's Executive Budget for fiscal year 2022, and to highlight some of the agency's key accomplishments over the past year.

As the central personnel agency for the executive branch of state government, the Department of Civil Service delivers workforce management and development services to 70 agencies serving approximately 150,000 employees. In that capacity, the department is responsible for the administration of the civil service merit system, along with the New York State Health Insurance Program.

Over the past year the department has made significant progress to improve the efficiency and cost effectiveness of our programs and services, while advancing the state's strategic workforce needs. And in the face of the COVID-19 pandemic, we have worked hand in hand with agency partners to do our part, from ensuring the most critical workforce priorities are met, to ensuring access to high-quality healthcare and providing direct support to our first

responders.

In terms of workforce needs, Civil Service has acted quickly to establish critical positions needed to address COVID-19 needs. To date, approximately 1800 positions have been established, including more than 1300 positions at the Office of Mental Health and Department of Health, and on a daily basis we remain in close contact with our stakeholders, responding to hundreds of inquiries and requests for guidance from the HR community pertaining to personnel recruitment, attendance and leave protocols, and other staffing matters.

During the early days of the pandemic, the physicians, nurses, and medical technicians who work at the department's Office of Employee Health Service were mobilized to provide immediate support for COVID-19 response efforts by medically clearing health professionals, first responders, and other essential workers who needed to wear a respirator in the performance of their job.

To date, staff have cleared more than 800 individuals in support of this effort, including employees from the Department of Health, State Police, National Guard, Department of Environmental Conservation, Office for People with Developmental Disabilities, and others.

With regard to civil service testing, the Department is focused on building back better by modernizing its approach to test delivery through the use of technology and business improvements.

As you can imagine, the pandemic had a significant impact on the department's ability to conduct in-person civil service exams for state agencies and local governments. To address this issue, the department utilized CARES Act funding to invest in new and robust technology to deliver virtually proctored civil service examinations to job seekers, reducing potential exposure to COVID-19. This testing capability will allow the State of New York to meet targeted hiring needs.

In addition, this investment will streamline the exam application and review process and ensure that New York is strategically planning for the workforce of tomorrow.

Further, to ensure equity and access for all job seekers, the Department has invested in new Chromebooks to ensure that examinations can be administered to candidates who may not have the technology required to take a civil service exam remotely.

Through these actions, we will continue to modernize the civil service merit system and build on Governor Cuomo's legacy of expanding opportunity for all New Yorkers.

Support for diversity, equity and inclusion in the state's workforce is of critical importance, and under Governor Cuomo's leadership the department has worked collaboratively across state agencies to cultivate a more inclusive work environment for all employees.

The department's Office of Diversity

and Inclusion Management continues to work with state agencies to identify and implement best practices related to outreach and recruitment, retention, reasonable accommodations, and other areas. These efforts are laying the groundwork for agencies to develop comprehensive strategic plans to meeting workforce and community needs throughout the State of New York.

In addition, the department recently debuted a highly interactive virtual implicit bias training intended for all agencies, further promoting the state’s commitment to diversity and inclusion principles during a time in our nation's history that the need for such has become increasingly evident.

The Department of Civil Service also provides technical assistance and training to 95 municipal agencies that are responsible for the civil service administration of approximately 360,000 local government employees. As part of these efforts, the department reviewed more than 2,500 requests from local government representatives over

the past year to support the appropriateness of various merit system activities and the practicability of examination for certain titles.

On the health benefits front, the department continues to manage one of the most comprehensive public employer health insurance programs in the nation. Early in 2020, the department launched a new telehealth program for over 1 million individuals enrolled in the state's Empire Plan to enable virtual medical visits.

The telehealth program, which is offered at no additional cost, allows members to participate in virtual visits with a board-certified doctor or licensed therapist by simply using a personal computer, tablet, or smartphone.

The initiatives the I have highlighted today underscore the department’s ongoing commitment to supporting high-priority workforce needs, providing efficiently managed and cost-effective programs and promoting equal opportunity and access for

all New Yorkers.

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

CHAIRWOMAN KRUEGER: Thank you very much, Commissioner.

Our first questioner will be Andrew Gounardes, our chair of the Civil Service Committee.

SENATOR GOUNARDES: Great. For some reason I'm not able to turn my camera on; it says -- oh, here we go. All right. You would think 10 months into this we'd be able to figure this all out, but clearly not.

Hi, Commissioner, how are you? Good to see you.

COMMISSIONER BRABHAM: Hi. I'm doing great, how are you?

SENATOR GOUNARDES: Doing great, great. Thanks for your comments.

I have a bunch of questions. First, I want to pick up where you talked about the virtual examinations. And I know that the

Governor had allocated some money in the budget this year to kind of help expedite that transition. Have we already been giving virtual examinations over the past year, or is that something that's going to be starting moving forward?

COMMISSIONER BRABHAM: No, that's going to be starting moving forward. Right now in-person civil service examinations remain, you know, on hold. However, you know, we have exercised maximum flexibility to assist our state agency partners in being able to make appointments, particularly with, you know, critically needed positions. And we continue to hold T&E exams, the technical training and experience exams, and also continuous recruitment exams.

SENATOR GOUNARDES: Great. Thank you for that.

I had heard from a number of workers, you know, who have been scheduled to take exams early on last year that were postponed, obviously due to the pandemic. And I wonder if there was a -- and were asked to pay a fee

to process their applications. Will those fees kind of be carried over to their future rescheduled date, if it's virtual or not? Will they be refunded? What's the department's plans for the fees that have been collected so far from people --

COMMISSIONER BRABHAM: Yes. So we're working with agency partners on the exam schedule. And we're certainly endeavoring to hold all of the exams that were postponed.

And to answer your question, yes, anyone who paid a fee for an exam, that will be rolled over and credited so they'll be able to apply that when the exam is rescheduled. In, you know, extremely limited circumstances -- for example, if someone has retired and will no longer be part of the state workforce -- and again, we'll look at those situations on a case-by-case basis. But in those limited circumstances, there may be a refund due to an individual in that situation.

SENATOR GOUNARDES: Great. Thank you.

The Governor's budget proposes closing

a number of state-operated facilities, some of which are not located near any other state facilities within the same agency. What happens to the employees in a case like that? Are they laid off, are they transferred, are they given the option to have to drive three hours to the nearest job placement within the same agency? Can you shed some light on that for us?

COMMISSIONER BRABHAM: Sure. So, you know, anytime we are made aware of any kind of facility rightsizing, we immediately begin working with the impacted agency and employees to -- through our ARTL process to see if we can match those individuals with another position that they qualify for. It could be within the same agency or it could be at another state agency.

And, you know, hopefully -- and we're working right now, you know, with several different agencies to make those placements. In the event that an employee either declines a placement or a placement is not found, that person would be placed on a mandatory rehire

list and would need to be hired, you know, into that title before someone from the outside could be hired.

SENATOR GOUNARDES: Thank you.

I want to pivot now to talk about, you know, how we've seen the workforce kind of adapt and deal with the pandemic. And we've heard and I've certainly heard lots of instances and reports, and I think that this has now been -- you know, there might be some action being taken on this -- about some public agencies, some state agencies not complying with the COVID paid sick leave that we passed last year, you know, before we -- you know, last March.

And I just wanted to get your thoughts on that and see, you know, what steps the department is taking to make sure that these affected agencies are in fact complying with the mandatory paid sick leave for employees who are being told to go into quarantine.

COMMISSIONER BRABHAM: Well, I guess, you know, that's really a two-part answer.

You know, our role is to send out

guidance to the workforce community so that they understand what the rules are.

With the situation that you're talking about, you know, the Governor's Office of Employee Relations really takes the lead on negotiating, explaining, you know, the various paid sick leave, quarantine leave and all of that. And it's my understanding that there is actually litigation around this right now. So I, you know, would like to not comment any further but would instead refer you to Michael Volforte, from GOER, who is coming up after, after my presentation.

SENATOR GOUNARDES: Okay, thank you. I would just hope, you know, certainly speaking for myself, but I'm sure for my colleagues as well, you know, the intent of the law was to make sure that employees are not penalized for being forced into quarantine, especially those that got sick, while having no option to Zoom their way through their workday, especially {inaudible} employees. And so I know that many of us take a very keen interest in seeing that

resolved in a way that reflects the intent of the Legislature when we passed that law last year.

COMMISSIONER BRABHAM: {Inaudible.}

SENATOR GOUNARDES: Pivoting off of that, can you give us a sense, in your assessment, either for -- both for your department and also for other departments that you're helping advise, how agencies are complying with the pandemic preparedness law that we passed last year? That would have been Chapter 168 of last year's laws for each agency to prepare pandemic preparedness plans.

COMMISSIONER BRABHAM: Yes. I mean, I know that every agency is working on that. You know, I can only comment on my agency.

We started working on this actually a couple of years ago, so we were well positioned to make the necessary tweaks to our continuity of operations plan to ensure that we're meeting the letter of the law.

Those plans, you know, have been submitted to our deputy secretary, and I

think that we're in good shape.

SENATOR GOUNARDES: And your plans, they were done in consultation as well with employee representatives, as required --

COMMISSIONER BRABHAM: Yes. Yes, that's correct.

SENATOR GOUNARDES: Okay. Great. Thank you.

And finally, the last area I want to kind of cover right now is you talked about the 1800 new positions that were created to kind of deal with the flexibility and the needs that the workforce was facing throughout the last 10, 11 months, can you just give us a sense what -- you know, broadly speaking, what other lessons learned or insights gained in terms of how we should be thinking about our public workforce in light of the challenges that this pandemic has brought upon us. Especially considering that many of our public workers were kind of asked to do a lot of out-of-title work just out of necessity; otherwise, things wouldn't get done.

I'd love to hear your thoughts on that.

COMMISSIONER BRABHAM: Well, I mean, I think there's a couple of things. You know, we at Civil Service for years now have been focused on title consolidation. And one of the reasons for that is to make the titles more broad and flexible to deal with some of the issues that crop up around out-of-title work.

I think, you know, one of the other things that this has forced us to look at is the value of telecommuting and whether or not it can be done effectively and whether or not we can maintain productivity in that kind of environment.

So I think that we've learned a lot about that. I think we've learned a lot about where we are with our technology infrastructure, for example, you know. So I think there were many lessons learned as we had to move as quickly as possible to kind of, you know, reorganize the way we go about doing our work.

SENATOR GOUNARDES: Great. Thank you very much. That's all the questions I have now.

COMMISSIONER BRABHAM: You're welcome.

CHAIRWOMAN WEINSTEIN: Senator Krueger, we do not have any Assemblymembers who have questions. I see you have an additional Senator with a question. I wonder if you could go ahead.

CHAIRWOMAN KRUEGER: Okay, thank you. I see Senator Ramos raising her hand.

SENATOR RAMOS: Yes, Senator Ramos has a question.

CHAIRWOMAN KRUEGER: You know what, Senator Ramos, I apologize. Shelley Mayer had her hand raised, and I feel I must call on her first --

SENATOR RAMOS: Only because it's Shelley.

CHAIRWOMAN KRUEGER: Thank you.

We need to hear you, Shelley.

SENATOR MAYER: Can you hear me now?

CHAIRWOMAN KRUEGER: Yes, we can.

SENATOR MAYER: Okay. Thank you,

Madam Chair. Thank you, Senator Ramos.

Commissioner, I have a question. Was there a delay in the scoring of exams because of COVID, exams that had been taken prior to COVID but then they either were not scored or the results were not sent out to the respective test-takers or to the municipalities? This was a complaint I heard.

COMMISSIONER BRABHAM: I'm not aware of -- are you talking about a specific municipality or a specific -- I'm not aware.

SENATOR MAYER: Yeah, I am, but I just wondered whether this is an institutional problem of -- because people were out, that test did not get scored on a timely basis once COVID really kicked in in March.

COMMISSIONER BRABHAM: Yeah, well, we didn't really have people out. We did have people who were working remotely, but that didn't stop the scoring of exams or any of that work that needed to happen.

So if there was a delay in scoring, I am not sure that that's directly related to

COVID. But if you'd like to talk offline about a delay or something that should have happened that didn't, I'm happy to do that.

SENATOR MAYER: Okay, thank you. I'll follow up directly with you.

COMMISSIONER BRABHAM: Okay.

CHAIRWOMAN KRUEGER: Okay, thank you. And now -- now we'll go to Senator Ramos. Thank you.

SENATOR RAMOS: Thank you, Senator Krueger.

I wanted to ask, Commissioner -- I noticed that the Executive Budget is proposing $800,000 in order to be able to proctor civil service exams online. I would have actually thought that that was a cost-saving measure. I understand, you know, you might have to put more things online. How are we justifying that cost, that investment right now? I understand that it's necessary, you don't need to make that argument to me, I'm just wondering about the price tag and, you know, why it's so high.

COMMISSIONER BRABHAM: So the $800,000

that you're referencing is not to put things online, it's to set up the virtual proctoring environment so that when an individual is at home and they're taking a test, an exam online -- it's the security for the exam. It's not just to simply put things online. There's --

SENATOR RAMOS: I'm sorry, it's the security for the exam? What does that mean?

COMMISSIONER BRABHAM: Well, you have -- so someone has to proctor the exam to make sure that there's not cheating. So just as the -- you know, similar to if you were taking an exam sitting in a room, there would be two to three individuals --

SENATOR RAMOS: Ah.

COMMISSIONER BRABHAM: -- you know, making sure that people aren't sharing answers or cheating or doing any of those things. So --

SENATOR RAMOS: Okay, so this 800 is largely, then for payroll.

COMMISSIONER BRABHAM: It's for proctoring of the exam.

SENATOR RAMOS: I see. Okay. And do you plan on keeping any of these exams, if not all of these exams, virtual? Will there continue to be a virtual option, do you think, after -- you know, post-pandemic, whenever that might be?

COMMISSIONER BRABHAM: Well, yeah, that -- right. So, you know, if there's any silver lining to this, it's that it has, you know, moved the needle in the direction of virtually proctored exams. And so as we move forward, we anticipate that the majority of the exams that we administer will be done online.

There -- you know, for the time being there may still be some exams that remain paper and pencil due to the nature of the exam. You know, exams that have a lot of technical material, you know, for now -- you know, for example, the engineering exam would continue to be paper and pencil for the time being.

But most of the exams will be moving in the direction of being virtually proctored

and online.

SENATOR RAMOS: Thank you for the information, Commissioner.

COMMISSIONER BRABHAM: You're welcome.

CHAIRWOMAN KRUEGER: Thank you.

Assembly, anyone else on your side?

CHAIRWOMAN WEINSTEIN: No, we can go on to the next witness.

CHAIRWOMAN KRUEGER: All right. Thank you very much, Lola. Appreciate your time today.

COMMISSIONER BRABHAM: Thank you. Great to see you.

CHAIRWOMAN KRUEGER: All right. Our next commissioner is Michael Volforte, director, New York State Governor's Office of Employee Relations.

Good afternoon.

GOER DIRECTOR VOLFORTE: Good evening. Thank you for having me here.

CHAIRWOMAN KRUEGER: Certainly.

GOER DIRECTOR VOLFORTE: Chairs Weinstein and Krueger and honorable members of the Assembly and Senate, my name is

Michael Volforte, and I serve as the director of the Governor's Office of Employee Relations. Thank you for the opportunity to address you on Governor Cuomo's Executive Budget proposal for fiscal year 2022 as it relates to the state workforce.

The past year has certainly brought us unprecedented challenges that none of us expected. I'd be remiss if I didn't open my remarks by acknowledging the dedication of so many New York State employees who have been on the front lines of our response to COVID-19. We have thousands of front-line workers who have been on the job every day throughout the pandemic, thousands more who have stepped up to keep critical programs going and services running despite the difficult circumstances.

We saw thousands more state employees willingly help out their fellow New Yorkers by staffing hotlines for answering COVID-19-related questions, scheduling testing, and processing Unemployment Insurance claims of an unprecedented nature.

I applaud all their dedication, and my agency remains steadfastly committed to working with their employee organizations to address all of their concerns.

Under the Governor's leadership, GOER has mounted a robust response to the pandemic. In mid-March, through negotiated agreements, we expanded the availability of telecommuting for employees who did not need to be on-site to deliver services. These were fair agreements that balanced the needs of the state to continue delivering mission-critical services while balancing the needs of our employees.

As a result, we've been able to reduce the number of employees on-site at any given work location to help ensure adequate social distancing.

These expanded telecommuting arrangements are in place through April 2nd, and employees not telecommuting have returned to office settings pursuant to safety plans put in place by every agency in accordance with Department of Health guidelines.

GOER also negotiated with all of our employees to relax deadlines that would have had employees otherwise forfeit unused vacation and other leave credits, even though many of those employees were unable to use those credits due to the critical nature of the work they were performing in response to COVID-19.

We also created a new, more flexible leave category to receive paid leave and set up a new response infrastructure to ensure we can give the proper guidance to agency managers who are navigating the difficult employment issues raised by the pandemic. While this new system started in response to the pandemic, we have recently transitioned it to a model where we use this system to handle all employment-related inquiries from agencies and give them advice that they need.

A great number of employees who take advantage of our flexible spending accounts -- pretax programs designed to allow employees to pay for certain eligible expenses on a pretax basis -- were impacted

by the pandemic. GOER took steps to ameliorate the impact of COVID-19 on this program by extending processing deadlines for use of 2019 funds, alerting individuals about the ability to change 2020 deductions within federal guidelines, and expanding the 2021 program by permitting employees more time and access to their 2020 funds during the plan year 2021 by permitting a carryover and longer run-out period for two of the programs. More than 31,000 employees saved money through these programs.

Our Employee Assistance Program rendered valuable assistance to almost 23,000 employees working and coping with the pandemic. We also distributed over 7,000 job and career related tuition reimbursement benefits in the last year. Guidance was issued on ergonomics associated with working from home to help keep the workforce healthy.

While much of our focus has been on aiding the response to COVID-19, we have continued to administer benefits and programs like these that are designed to improve both

the quality of the work and the personal experiences of our employees.

Early in the pandemic we directed agencies to ensure that they utilized the labor-management process to keep their union counterparts informed and to address their concerns. Needless to say, every conversation isn't easy, and opinions sometimes differ, but we have remained committed to dialog with our union counterparts throughout this crisis and are proud of the job so many union officials and agency human resources teams have done throughout state government to keep the lines of communication open and get employees needed information and assistance.

Last year I reported to you that as part of the Governor's broad agenda to protect the LGBTQ community we would be making cultural competency training on gender identity and expression available to all state employees.

I'm pleased to inform you that we recently launched a gender identity toolkit

that is mandated for all our employees. This is a collection of resources designed to help ensure that our employees have the information that they need to make sure that all New Yorkers are treated with respect. We're very proud of this toolkit and look forward to developing additional training and resources that reflect the Governor's strong ongoing commitment to a New York that is fair and welcoming to all.

In addition, last year the Governor declared that Juneteenth would be a holiday for the state workforce, and signed legislation passed by the Legislature designating Juneteenth as a public holiday in New York.

As you know, GOER investigates complaints of protected class employment discrimination and harassment in executive branch agencies covered by Executive Order No. 187. With our team, we are actively investigating complaints of intimidation and harassment in order to ensure that all allegations are investigated, individuals are

advised of the result of that investigation, and appropriate action is taken in a timely manner against anyone found to have violated our policy.

When the pandemic hit, we were in negotiations with several unions, and those have been slowed by the pandemic. In the coming fiscal year we anticipate returning to the bargaining table with those unions and commencing negotiation with others whose contracts will expire in the coming year. As you all know, the pandemic has created serious fiscal concerns, and the state is committed to working with the unions to achieve fiscally responsible agreements.

In closing, despite the challenges of the past year, executive branch employees have continued to deliver critical services to New Yorkers. GOER stands ready to partner with its union counterparts as we move forward and we all look forward to better days.

Thanks.

CHAIRWOMAN KRUEGER: Thank you,

Commissioner.

We've been joined by Senator John Liu.

Any Assemblymembers you'd like to introduce, Helene? Any new ones?

CHAIRWOMAN WEINSTEIN: No. But we do have a question if you don't.

CHAIRWOMAN KRUEGER: Oh, no, we do, I just thought I would give you an opportunity to introduce others who showed up.

We have our chair, Andrew Gounardes, chair of Civil Service.

SENATOR GOUNARDES: Great, thank you. Thank you very much, Director.

I only have a couple of quick questions for you, and I want to kind of pick up from where you just left off talking about bargaining with our labor unions in collective bargaining agreements. And I wanted to ask you specifically about the one set of workers, state workers who have been working without a contract for the last seven years, and that is our PBA in New York State, the people that represent the Park Police and the SUNY Police and the Environmental

Conservation Police.

They have a pay bill which has been waiting, and that was a court-ordered arbitration award, which has been delayed by the Executive. It is accruing interest by the day. And so the longer we delay in paying this bill that was due seven years ago, it's going to only become more costly to the state.

And in light of the fiscal challenges that you just alluded to, I'd like to ask, you know, when can we expect to see this pay bill finally executed and the bill paid for these workers?

GOER DIRECTOR VOLFORTE: Thank you, Senator.

Certainly it's a matter of concern to us. A clarification, though. The interest arbitration award was issued and was agreed to by the state, but the passage and signing of the pay bill is a necessary precursor to paying that award. So as soon as the -- as soon as it's passed and signed, the pay bill will be implemented, and that's what

implements that interest arbitration award.

SENATOR GOUNARDES: Well, I don't know if we have the bill yet from the Executive. I know we're waiting for that bill to be passed down to us, as we were waiting last year, which he released at the last minute. And, you know, we clearly can't take that action until the Executive gives us that pay bill to execute on it.

So I think that we are waiting for those next steps in order to move forward and make sure that these state employees are able to get to the pay that they were told they deserve seven years ago.

So it's clearly a concern for me, and hopefully we can expedite this as soon as possible.

The next question I wanted to kind of focus in on, in your capacity as director, what advice and expertise have you been able to give to other agencies at the state level in terms of them crafting and preparing their own workplace safety plans, as required by the pandemic preparedness chapter that we --

I discussed with the previous two panelists?

GOER DIRECTOR VOLFORTE: Certainly. There's been a lot of discussion on this, and I know that the agency plans are in process for them to be shared with the unions.

Our focus is really on those things that are, you know, either subjects of collective bargaining, either for the future, perhaps, or have already been the subject of collective bargaining.

So questions on changing of schedules, altering of work weeks and that nature -- and certainly things, you know, revolving around things like telecommuting, which I mentioned that we negotiated telecommuting agreements. So it's on how the workforce gets scheduled, where they work, when they work, those type of questions has been really the focus as agencies have developed these plans and we've had interactions with them.

SENATOR GOUNARDES: In your assessment, do you think that -- or do you have any concern that we're not going to be able to meet the April 1st deadline?

Because, you know, we are -- all levels of government are trying to bring employees back to work in any way possible, and I want to just get your assessment as to whether or not we'll be ready to bring them back safely within the next couple of months.

GOER DIRECTOR VOLFORTE: Certainly.

I have no concerns that the state is going to meet the deadlines imposed by the law. And agencies have been operating under safety plans since May which have already been shared with the unions, which are COVID-19-specific.

The COOPs that the Legislature passed and the Governor signed into law aren't COVID-19-specific, although they will be -- you know, our COVID experience will certainly inform them.

So agencies that are bringing employees back are already operating under safety plans. But I've got absolutely no concerns that agencies will meet the April 1st deadline for the COOP plans currently required by Chapter 168.

SENATOR GOUNARDES: Great. Thank you very much. Those are all my questions.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: Yes, we go to Assemblyman Ra, our ranker, for five minutes.

ASSEMBLYMAN RA: Thank you, Chairwoman.

I just wanted to ask a little bit more -- you mentioned in your remarks, you know, the two main kind of cost-saving initiatives, the hiring freeze and the deferral of the salary increases.

With regard to the hiring freeze, is there, you know, set, clear criteria for the agencies to utilize when knowing whether they, you know, should be looking at bringing somebody in and looking for a waiver?

GOER DIRECTOR VOLFORTE: I think historically the hiring freezes have had exceptions to them, but I believe all the agencies have been advised of that.

And they normally fall into two categories for applying for exceptions.

Health and safety is one major area. And then mission-critical, where perhaps those employees aren't necessarily related to health and safety, but if you have one person performing a duty and you need to replace that individual, that certainly is mission-critical, and that is part of the process.

And hires need to be justified, and understandably so, given the current economic circumstance we're in. But I believe that through the Division of Budget and others, that that guidance has been given to the agencies.

ASSEMBLYMAN RA: Okay. And in the case of a transfer, a waiver is required for that as well, if it was like between agencies or --

GOER DIRECTOR VOLFORTE: That -- that I'm unaware of. GOER isn't involved in the transfer process; it's really through the Department of Civil Service. But -- so I can't really comment on whether a waiver is required for a transfer.

ASSEMBLYMAN RA: Okay. Thank you.

And then just with regard to the deferral of the salary increases, do you know what the -- you know, I guess the current proposal would be that it would go to 2023 -- what the retroactive payment liability would be?

GOER DIRECTOR VOLFORTE: I don't have the retroactive payment liability in front of me. But I would say I believe that in the budget that that 2023 number is the worst-case-scenario number in terms of federal aid.

And then I believe as both the Governor and the Budget Director stated, that if we get our fair share, which is the $15 billion minimum, which we expect to be our fair share, that we would repay that -- those deferred raises before that.

ASSEMBLYMAN RA: Okay. Thank you very much for being here.

Chair, I -- that's it.

CHAIRWOMAN KRUEGER: Thank you.

Are there any other legislators who

would like to ask questions?

CHAIRWOMAN WEINSTEIN: I have -- Assemblywoman Jodi Giglio has a question, for three minutes.

ASSEMBLYWOMAN GIGLIO: Thank you.

Yeah, Ed Ra asked the question that I was interested in, which is the deferral of the contractual obligations for the bargaining agreements, collective bargaining agreements.

CHAIRWOMAN WEINSTEIN: Okay. So then I think we are finished with this panel, Senator Krueger.

CHAIRWOMAN KRUEGER: Thank you very much, Assemblywoman.

And thank you very much, Michael, for being here with us tonight.

GOER DIRECTOR VOLFORTE: Thank you all. Very much appreciate it.

CHAIRWOMAN KRUEGER: -- late afternoon. We're almost hitting tonight. Thank you.

GOER DIRECTOR VOLFORTE: Be safe, all.

CHAIRWOMAN KRUEGER: So our next

panel -- so now we move to the panels where people have asked to testify. And even though it seems ridiculously short, they get three minutes to testify and then we basically get three minutes to ask them questions, wherein their answers have to be within the three minutes also, with the exception of chairs, who get five minutes during these rounds.

I know it's been a long day, several hearings. But I think I got that all out correctly.

So our first panel, Civil Service Employees Association, Local 1000, Francine Turner, director of legislative and political action.

Then New York State Public Employees Federation -- you know, my chart says Wayne Spence, but I think I got a note earlier today that somebody was going to be filling in for Wayne. Yes, indeed. And she will introduce herself when we get to her. Thank you.

And for District 37, Henry Garrido,

executive director.

Good afternoon, slash, evening, Fran. You go first.

MS. TURNER: Good evening. How are you, Senator? It's good to see you.

CHAIRWOMAN KRUEGER: Nice to see you.

MS. TURNER: I want to touch on just two things in our testimony that are the most important for us. And let me lay a little background. I'm going to talk about the Office of Mental Health.

So over the past six years we have seen a 30 percent reduction in children's beds across the state for in-resident treatment of those that are in need of psychiatric care. We've seen a 20 percent reduction across the state for adult beds.

Last year I heard the commissioner say that we've absolutely hit rock bottom, can't go any further. And this year we look at this budget proposal and they are proposing another 200 beds across the board will come down. Eighty-eight of those beds are children's beds, 78 are adult beds, and the

rest are in the forensic units.

They say that the door has been open during the pandemic, but if we look at pre-pandemic numbers, most of these facilities where these beds are coming down were at capacity or very near capacity.

So there's no question that during the COVID people stopped seeking treatment, for whatever reason. I wouldn't say -- OMH claims the door was open. I would say perhaps it was ajar, but it wasn't open all the way. And we've seen mental health problems across the state with our children who have been out of school for almost a year, for many of them, with our family members that can't see their loved ones if they're in the hospital and they're passing away, can't see their parents in the nursing homes. I mean, there have been more and more incidences where these beds are going to become critical.

This year there's no reinvestment, either, so this is a definite across-the-board cut in services and the

state pulling back on their obligation.

It's also they want to privatize -- straight-out privatization of 100 of our community residence beds. And we have nowhere to go with this. There's not going to be enough services for people that need it.

This clock is running fast, and I haven't gone to OCFS, which is going to close facilities. But I want to answer Senator Gounardes's question that he asked of Civil Service.

If a member is offered a job two hours away, we don't believe that's a real offer. If they refuse that job, they would go on a preferred list. But we don't believe it's a real offer. If they refuse that job, it's actually a layoff.

And you don't just disturb the people that are leaving the facilities, you have a layoff unit that is bigger. So you are affecting a lot more people. Because I can come from a facility, go to a new facility, and I can bump and retreat. Right? So more

people are going to get affected that just those in the closed facilities.

And we have four closures in OCFS, leaving no services in Suffolk County. We also have Rockland Children's Psych closing in Rockland, which means there would be no children's beds from the Bronx to Utica, New York, leaving a vast territory of not having service for the children in the psych centers.

And I guess I have 11 seconds to go. I'm done. How's that?

(Pause.)

CHAIRWOMAN KRUEGER: I didn't realize I was on mute. Thank you very much, Fran.

Next, from PEF.

MS. DiANTONIO: Good evening, Chairpersons Krueger, Weinstein, Gounardes, Abbate, and other distinguished committee members. Thank you so much for having us here today and giving us the opportunity to speak with you.

First I want to echo everything my sister from CSEA has just said about the

closures and the cuts at OMH, particularly around children's beds and services. This trend to downsize and diminish the Office of Mental Health, the closures within OCFS, the cuts in beds at OPWDD is happening from Long Island to Buffalo.

We have significant concerns that this budget is being balanced on the backs of our most vulnerable citizens. It goes against every stated value that we've talked about throughout this pandemic about making sure that critical services are available and being provided to the state's most needy.

This is a contradiction. Underfunding, short staffing, critical short staffing of nurses has been the reason or the excuse to cut some of these services. It is incredibly important for us to look at this budget and really reinvest and recalibrate how we provide public services.

You know, if mental illness is growing in this state, why are we cutting services? If you want meaningful criminal justice reform, why are we closing juvenile justice

centers that provide unique and specialized services?

I'm a social worker by trade. I started my career at OCFS. I worked with juveniles who committed sex offenses. These programs that are slated to close provide services like sex offender treatment, they provide critical supports for people in the LGBTQ youth community. We're talking about trying to fix the system by taking away all the tools in the toolbox that we would use to fix it.

You know, across the state consolidating community services offices at OCFS. They're looking to close all the New York City offices and make one in Brooklyn. They're looking to close the Binghamton and the Watertown community services offices. Where are these families and these youth supposed to go to get services? Are they supposed to drive from one end of the state to the other? Because that's not the reality.

We continue, despite us banging this

drum for years and years, to spend a billion dollars on consultants. We continue to have over 8,000 FTEs that are -- you know, could be better served by being reinvested into the public workforce.

This is not a budget that takes care of not only the heroes that we've had working for us, but the people that we say need the services the most.

One of the things in the budget -- an oldie but a baddie -- you know, is trying to cut retiree healthcare benefits. Every year it comes up, and every year we say, why are you doing this on the backs of people with fixed incomes when we're trying to recruit new state employees and we've cut benefits and pension plans?

All of these things lead to, you know, a diminishment in services and care for our New Yorkers. And, you know, we've stepped up to the plate and we really need, you know, your help in making sure this budget is reflective of our real values.

Thank you.

(Pause.)

THE MODERATOR: Senator Krueger, you're on mute.

CHAIRWOMAN KRUEGER: Henry, it's your turn. I apologize, I was on mute.

MR. GARRIDO: Thank you and good evening, Chair Krueger and Chair Weinstein and the members of the state Assembly and the Senate -- too many friends to begin to name them all, my three minutes will be up just by naming you all and thanking you for your leadership.

My name is Henry Garrido. I'm the executive director of District Council 37, the largest municipal union in New York City, representing 150,000 municipal employees and nonprofit workers.

You know, COVID-19 has left us unprecedented challenges, and nearly 200 DC 37 members have lost their lives by providing essential services. And yet we haven't skipped a beat and will continue to deliver services to New Yorkers.

So therefore, I mean, I only ask that

this budget prioritizes those very essential services that have sacrificed so much, including their own lives, for New Yorkers.

And I want to focus my testimony on three areas. One, I want to push back on the unprecedented cuts in the Executive Budget. Two, I want to make a case for state revenue, which includes taxing the wealthy. And lastly, I want to make a particular emphasis on an early retirement incentive to address New York City's shortfall.

First, let me start with Medicaid and human services. I think the Executive Budget proposes a 1 percent across-the-board cut for Medicaid that has the recommendation of the Medicaid Redesign Team of $2.5 billion. And it has no sound -- no basis in public policy.

That would result in $116 million in cuts to the Health + Hospitals Corporation and $113 million for FY '21 and '22 respectively. Which, you know, in the middle of this pandemic, makes no economic or sound sense in terms of delivering services.

I want to speak for health and human

services which, in spite of the recent increases, the funding continues to be flat. And we are looking for an increase in health and human services at a time that we need it the most. I think it's very dangerous to gamble with this -- the lack of delivery of services.

The salaries of workers have remained flat, and many of them have not been the recipients of the services that we've seen across the board of all the city workers.

I want to make a case shortly about taxing the rich and rebuilding an economy that requires us to pitch in. I know it's difficult, but it's something that we need to do. And there are a number of proposals on the table. And, you know, I will say to you: Pick one, pick two, pick three -- but pick one. I mean, like get to the point where we talk about revenue and not balancing the cuts of the budget on the workers.

Lastly, and equally important, the early retirement system which we have proposed. And I want to thank Chairmen

Gounardes and certainly Abbate for their leadership in the effort. We need an early retirement system that recognizes the hard work of dedicated workers and lets them retire with some dignity and economic security, and it allows us to also do -- balance the budgetary constraints of the city.

Thank you for the opportunity to testify. And I'll close with this. A budget will always be a statement of values. If you value essential workers, you will make sure that those workers are funded and provided for.

Thank you.

CHAIRWOMAN KRUEGER: Thank you very much. All right, thank you all three. I know I saw the hand of Senator Shelley Mayer first, I believe.

SENATOR MAYER: Thank you, Madam Chair. I think someone needs to be muted.

CHAIRWOMAN KRUEGER: I think so too. Anybody who is not on mute?

SENATOR MAYER: First, I want to -- Fran -- thank you all for your testimony, very much, and thank you for your leadership in this really tough time and for your members who stepped up, as you said, Henry, and many of whom paid the incredible price of life for this.

Do you have a projected number of staff reductions that you think -- to your membership, given the Governor's proposals in the agencies you mentioned?

MS. TURNER: You're talking to me?

SENATOR MAYER: Yes, I am, Fran.

MS. TURNER: You know what, probably close to 200. But let's talk about it. Because the ARTL system will work, right. This is the agency transfer system.

But -- so let's say there's 200 people from the affected facilities. They will be offered a job, let's say, Goshen -- somebody from Goshen is offered a job at Brookwood. Okay? That person going from Goshen is in the same layoff unit. Right?

SENATOR MAYER: Yes.

MS. TURNER: But perhaps they go, and they lay off or they're going to bump somebody in Brookwood, because they have more time.

So it's hard to say. Probably around 200 jobs total, but it's hard to say. Some of these facilities do have openings, so some will go smooth. But it's hard to say how many more families will be affected. Right?

SENATOR MAYER: Yes. And one of --

MS. TURNER: Because it's not just the person moving, it's -- the whole layoff unit is the same.

SENATOR MAYER: I understand.

And Randi, do you have a PEF number for what you anticipate the impact of the Governor's budget on your membership?

MS. DiANTONIO: Well, I mean, we know that we know that we would lose around 800 FTEs total. But it's not by unit, it's total.

I mean, we have seen over the last many, many years a significant reduction in the state workforce. So, you know, any

reduction right now when we're at sort of bare bones, people doing jobs that they're not entitled to do -- I mean, they talked about it earlier, they had spread people out all over the place because of the staffing problems we have. And I think, you know, this budget is 800 total, but if you look at it cumulatively over many years, we are at a critical shortage point.

SENATOR MAYER: Right, I understand.

And, Henry, I wonder for you, on the Executive's proposed budget, given what you mentioned, do you have an idea of how many employees might lose their jobs?

MR. GARRIDO: We don't. But what we've seen, for instance, with the reductions of the previous 10 percent, we saw a reduction of about 2,000 head count in CUNY, in the City University of New York. And obviously the $113 million I mentioned for the hospitals would be devastating at a time when we're delivering services.

So we reached an earlier agreement with the city for city agencies. That

doesn't apply for state agencies. So I don't have a total number, Senator. But we're very concerned about the head count reduction.

SENATOR MAYER: Okay. Well, we are too, very. This is not a time to lose jobs. But thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly?

CHAIRWOMAN WEINSTEIN: We go to our ranker on Ways and Means, Assemblyman Ra.

ASSEMBLYMAN RA: Thank you.

To start, I just want to thank all three of you and all of your members. You're 100 percent right, these are the essential workers who have kept our state moving and provided essential services. And certainly our condolences to all of your members on colleagues that were unfortunately lost to this virus.

I just had a question, actually, in terms of the state agency workers. My understanding was, you know, back earlier in the year as we were reopening and things like that, that there were workers that were

transferred to agencies like the State Liquor Authority to do enforcement.

I'm just wondering if there were any -- if you have any information as to, you know, how many people were doing that type of work and working in different agencies, and if that is continuing or if that's been reduced or --

MS. TURNER: We did see a lot of workers go to DOL at the very beginning because they were helping with the unemployment.

But for the CSEA workers -- remember, most of our workers on the state side, more than half of them are direct care workers in the 24/7 facilities. So we're so short-staffed there that we couldn't go anywhere if we wanted to.

And I would only add that, you know, this hiring freeze has resulted in 6,000 vacancies across the state. That's a lot in a year we haven't been able to replace. So we haven't had the movement -- I don't know if -- Randi, if the PEF workers

have had movement.

MS. DiANTONIO: Yeah, I think a lot of our members at various agencies -- the Liquor Authority, Homeland Security, Department of Health, were reassigned to do different tasks. They were doing COVID screenings at the airports. They were doing unemployment. They were setting up testing sites.

You know, so over the course of the pandemic I think the tasks have shifted. But we absolutely -- Tax & Finance had -- you know, were very involved in answering call-center questions. You know, I mean, our members were willing to step up and do whatever they needed to do to help. But I think it really magnified the -- nobody could predict the pandemic, but it really magnified that there were critical shortages to address real needs when New Yorkers needed them most.

And I think many people have gone back to the roles that they had previously, but we still have people doing alternate duties and working as they've been asked to. Much of it

has been voluntary. Some were, you know, not able to have voluntary assignments.

ASSEMBLYMAN RA: Great. Thank you.

CHAIRWOMAN KRUEGER: Thank you. So that was Assembly, so back to Senate.

Our chair -- hi. Back to our chair of Civil Service, Andrew Gounardes, five minutes.

SENATOR GOUNARDES: Great. Thank you.

Hello, everyone. You just -- all three of you really touched on a lot of the issues that I was going to ask about, so thank you very much for sharing your stories and your perspectives on behalf of your members.

I want to just ask you all kind of the same question. You know, we heard from some state officials about what steps are being taken to ensure that state workplaces are being made safe as we're trying to bring workers back home. So I'd love to hear from you, especially Randi and Fran, about what was the consultation you have seen in workplaces to help bring these agencies up to

speed to bring your workers back?

And then for you, Henry, you know, the mayor announced a very ambitious plan last week to bring back a majority of our workforce in a few months. I really want to hear from you as to whether you think we're ready for that. And that's obviously on a much larger scale and size than I think some of the other agencies and entities we're taking about.

MS. TURNER: So I guess I'll go first.

I will say this, Senator. For probably 85 percent of the CSEA state workforce, they reported to work during this pandemic because the nature of their job is a direct care job. Right? So they went to work every day. You know, let's face it, when it first started we all had the PPE problems. It's scary. We also lost 82 CSEA members in all the different agencies. It was scary. Things have gotten a lot better.

You know, Mike Volforte did talk about we did have regular labor-management meetings. And the sooner we started them,

the better off we were as far as workplace safety guidelines. And the agencies have worked with us, they want to keep us safe.

You know, it's been hard in our OPWDD facilities because the client doesn't understand wearing a mask, they don't understand social distancing. There's a lot of intensive treatment there. It's been tough.

But I would say that the agencies worked with us, we're doing the best we can. For those in DOL that worked remotely, a lot of them back to work and they feel comfortable. We haven't had many complaints.

DMV, a few complaints, because they're in -- they're in touch with the general public every day, all day long. So it is a little bit harder for them, and especially for our DMV workers who administer the road test, because they're getting in cars with people. You know, that's difficult.

SENATOR GOUNARDES: Thank you.

Randi?

MS. DiANTONIO: Yeah, so I would like

to say that our experience with a lot of the agencies has been the same as far as, you know, getting our input, collaboration. Some agencies have been way better than others. The agencies where we have, you know, our medical, healthcare professionals, people that are in critical roles where they have gone into the workplace every single day. You know, our prisons in particular.

We are still -- you know, some days are better than others. We still have facilities where getting the right PPE has been problematic. And we have others that have been absolutely on top of stuff. So it's definitely been hit and miss.

Where I think we have really seen a lack of what we consider logic is the locations -- a lot of our administrative agencies that did go to remote work and were extremely productive have started bringing people back into the worksites without a whole lot of reason to do so. Especially in the New York City area, where public transportation, where rising numbers, all of

these things were happening at the same time as them telling people that had successfully transitioned to remote work, they're being told to come back in. And they really didn't have a good rationale for it.

We're still definitely looking forward to seeing some of the pandemic plans. We haven't necessarily been given the opportunity to provide input, although we've given input, whether it's been taken into account or not.

I do think that it's -- it's one of those things where we are pushing constantly to reduce density in certain settings. Our buildings are old, we have, you know, facilities that don't have great ventilation. And the more we can do that, the better. But it has not been an easy road, and I think there's definitely more we hope to accomplish, and we hope to have those conversations at the agency level.

I do want to answer a question you had asked earlier, if that's okay, on quarantine leaves.

SENATOR GOUNARDES: Let me hear Henry, and I'll come back for a second round after that. Okay, Randi? Thank you.

MS. DiANTONIO: Great.

MR. GARRIDO: Let me just say that of 150,000 members we represent, 100,000 were already deemed essential, so they're working every single day in the city agencies.

However, if you look at what I mentioned from the onset of my testimony, you look at the nearly 200 DC 37 members who passed away while -- from COVID-19, you'd be surprised to hear that the majority of those workers did not come from hospitals or healthcare units who are directly dealing with people who are sick. They're actually -- the number of people passing away in those hospital settings was lower than in some other agencies.

Where you saw the biggest number was in homeless services, in -- you saw it in social services. People were applying for food stamps online, but they had to be recertified by an agency, and they kept

everyone coming in in clusters, right? And clients, as Fran said, were not using masks and were not exercising social distance. It took a while for people to get organized.

But I will say that we're not ready yet. We're hoping to install partitions in some instances, and obviously exercise -- I think that what we've done better is to provide PPEs where we didn't have any, you know, and filters and things of that nature where we are required to, and then there's more of a general recognition to wear masks and everything else.

I would say that -- just to work off something that Randi said, is that it's very, very clear to me that we're rushing for public policy to bring everybody back when it's not necessary. When productivity is still up, through the roof, where people are doing remote location -- look, at some point we're all going to have to come back, there's no question about it, right? But if we're vaccinating workers at the tune of 3,000 a day -- right now many of our workers want to

be vaccinated; there's no vaccine available for them -- even though they're classified as 1b or 1a, first responders -- because the city ran out of it. I don't understand what the rush is --

CHAIRWOMAN KRUEGER: Thank you. I'm sorry, Henry, I let you go on because I didn't think you'd had a fair chance. But now I have to jump to the Assembly.

Helene?

CHAIRWOMAN WEINSTEIN: So we need to go to Jo Anne Simon, for three minutes.

ASSEMBLYWOMAN SIMON: Unmute. And the video. Okay. Had a little lag on the unmute and the video.

CHAIRWOMAN KRUEGER: I know, everything's slowing down tonight for some reason.

ASSEMBLYWOMAN SIMON: Okay. So thank you all for your testimony. It's been very helpful. And I think a lot of us share your concerns.

I guess I have a first question for you, Francine, about the closure of these

facilities, for example, particularly for youth. And it strikes me that these closures are not going to just affect the workers and the young people that are needing to be served, but that post-COVID we are seeing increasing numbers of young people in particular, but the population, with anxiety and depression, and increasing the need for these facilities to provide that care as well as obviously, you know, outpatient care and community-based services.

Do you have any estimates of what you believe the need will be post-COVID? Are your folks studying that at all? Can you help us figure that out?

MS. TURNER: We looked at the figures -- and I want to talk about OMH. We looked at the figures for OMH pre-COVID, and most of the facilities were at capacity or near capacity. So COVID comes, right. Even last November of 2020, Rockland Psych Center was at capacity. So how they've now justified moving those beds to the Bronx, I don't know. I don't think there is any

justification to leave the Bronx to Utica empty of no children's beds.

But if you look at the numbers pre-COVID, even up to April of 2020 they were at or near capacity. There's no question there was a drop-off, right? We didn't want people in congregate settings, so there was no question we weren't going to leave that door wide open to bring people in. So that's what we're comparing it to.

And we're also comparing it to last year the commissioner of OMH said, I can't go any further, I cannot take down any more beds. And now all of a sudden -- yup, I'm sure some of them are empty because of COVID. But what's going to happen as we get through this? Because we're not through it yet.

ASSEMBLYWOMAN SIMON: So that's true. I guess my concern is, you know, how much more are we going to need is a real concern.

And thank you, Mr. Garrido, I agree with you on the need to raise revenue. And I think many of us agree with that.

I guess my -- the question I have for

your workers, how will -- sort of post-COVID, it seems to me there will be a lot of changes in the workplace. Obviously there's telehealth, there's all these teleservices, there are -- your people are coming in, they're essential workers, but the nature of their jobs may be changing and we may have different ways of performing those kinds of jobs.

I'm wondering whether you have any sense of how your workforce will change or need to change the work that they're doing in the workplace as we go forward.

CHAIRWOMAN WEINSTEIN: If you could quickly answer, before moving to the Senate.

MR. GARRIDO: It's a critical question. We need to rethink the workplace differently. And mostly telecommuting needs to be addressed. Legislation needs to look at the new setup. I have so many workers who didn't have to go in but went in because they had no access to broadband and the children were using it for school.

So thank you for raising that up,

Assemblywoman.

CHAIRWOMAN WEINSTEIN: Thank you, Henry.

Now I'm going to go to the Senate.

CHAIRWOMAN KRUEGER: Thank you.

Senator Diane Savino.

SENATOR SAVINO: Thank you, Senator Krueger. Good evening, everyone.

So I'm going to save some of the questions about the closures, et cetera, for next week when we get to either Local Government or we get to the Human Service committee hearing.

I want to speak to all three of you about the issue of the early retirement, because it has come up as a matter of discussion in the Senate and I know in the Assembly as well, and there seems to be some concern. I know how dire it is for the City of New York and for DC 37 and the Municipal Labor Committee, because they are facing or could be facing massive layoffs if we don't do an early retirement. But some members have said that they won't vote for an early

retirement bill if it doesn't include a statewide bill for all workers.

And I know that many of you, particularly CSEA on the state side and PEF on the state side, you guys are in the opposite position. You have a shortage of members. So could you speak to a bit about why it might not be a good idea to extend it statewide? Just to clarify for some of my colleagues who don't understand why, even if we did it statewide, you might not want to opt into it, or you wouldn't want the state to opt into it?

MS. TURNER: Well, unfortunately we don't get to pick the positions. Right? And if in fact the Governor is going to target positions -- because I have never in my many years seen an early retirement incentive that hasn't been targeted. You're not going to be able to target half of the CSEA members because they're in positions where they're so short-staffed. Right? But these CSEA members will see management take it, and they won't be able to take it. That's number one.

Number two, the positions won't be refilled, so what does that leave the CSEA workforce? The state will privatize our jobs. We'll lose our footprint. Right? They're not going to hire back.

The whole idea of an early retirement is usually a tool to avoid layoffs. Correct? So it -- but then again, you're not going to offer it across the board with no targeting and with us being able to fill positions. So what are we offering? What are you offering for the state side?

SENATOR SAVINO: Thank you --

MS. TURNER: We're down so many positions. What are we doing?

You know, I will say this, Diane. In local governments we had a lot of these go on during the pandemic. They did a cash buyout, they reduced their workforce, it worked, it was clean, they can hire back whatever they want to hire back. It was a lot cheaper, and it worked all the way across the state in our large counties.

SENATOR SAVINO: So what I would just

hope that some members would understand is not stand in the way of the City of New York and the municipal unions that are seeking that as a remedy to avoid the layoffs there, because it doesn't extend beyond the City of New York. because it may not necessarily work beyond the City of New York today.

Would you say that that's fair?

MS. TURNER: Are you talking to me?

SENATOR SAVINO: Yes. Any one of you. Any one of the three of you.

MR. GARRIDO: What I can say from my perspective, Senator, we gave up $164 million to get a no-layoff agreement through June. Once that agreement is done, we're back at the whole concept of layoffs again.

Why look at a layoff when you can do an early retirement incentive? Thank you.

SENATOR SAVINO: Thank you, Henry. Thank you.

CHAIRWOMAN KRUEGER: Assembly, do you have a -- oh, you do.

CHAIRWOMAN WEINSTEIN: Yes, we have Assemblywoman Judy Griffin for three minutes.

ASSEMBLYWOMAN GRIFFIN: Okay. Okay, thank you. And thank you to the panelists for being here.

I'm very sorry for the loss of any of your employees. That is very, very sad to lose employees to COVID. And I agree with you on the cuts to mental health and human services, to the facilities. It's a real big issue, and these cuts are really untenable.

I too was asking about the early retirement. And I know Senator Savino just asked, but I just thought perhaps the other two panelists would like to elaborate. I've had a lot of constituents email me that they want the early retirement. And I just wondered if the other two panelists had any more to say on the pros and cons and what the early retirement would mean for you.

MS. TURNER: You know, there's no question that our members would love the early retirement. The problem is it won't be afforded to all of our members. Right?

ASSEMBLYWOMAN GRIFFIN: Yes.

MS. TURNER: And therein lies the

problem. If you can't give it to all of them and give them an opportunity -- and especially the ones that have been working 24/7 in the direct care facilities, putting their families and their lives on the line.

If you can't offer it to everybody, how do some get to take it but those doing some of the hardest jobs that we have wouldn't be able to avail themselves of it? How do we do that?

ASSEMBLYWOMAN GRIFFIN: Right. That makes sense. It really does.

MR. GARRIDO: And I appreciate and respect Fran's position, but let me just say for us, we have a different perspective, right?

We have a lot of jobs that are changing that we can allow folks to leave and not have to rehire. On the other hand, we have jobs that we now need, like contact tracers, that are critical to our function. And instead of laying them off, it would make a lot of sense if we can allow those to retire humanely, leave on their own time, and

then repurpose hiring to some of the newly created positions.

ASSEMBLYWOMAN GRIFFIN: Makes sense.

MS. DiANTONIO: And I would actually echo what CSEA, what Fran has said. I mean, if the state isn't going to backfill positions, if the state's going to cherry-pick who gets it -- it doesn't -- yeah, it makes the few members that get it happy, but it leaves everybody else, frankly, screwed. Because you don't have enough people now to get the work done.

And you have people that are given an incentive and we're still in a huge staffing hole and we're still in a huge deficit to provide the services that are critical.

And so it's just one of those things that unless everybody was offered and unless they were going to backfill, you wouldn't get the support on a statewide level for it from -- at least from where we're sitting.

ASSEMBLYWOMAN GRIFFIN: Yeah, that makes sense. And also the risk of having everything privatized is a huge risk as well.

CHAIRWOMAN KRUEGER: Because I think it goes back to Diane Savino's point that the story in New York City and the story for the state can be very different in this situation. So thank you all.

Our next questioner is Senator John Liu.

SENATOR LIU: There definitely is a little bit of a delay in the unmuting. But thank you very much, Madam Chair.

Great to see all of our panelists here today. You look mahvelous, Randi, Fran -- long time --

MS. TURNER: Long time.

SENATOR LIU: And of course Henry is looking like a magazine cover.

I want to say from the outset that we are truly -- we feel so much sorrow for all of our state and city workers who have given their lives to COVID. And, you know, it's -- these are essential workers that all New Yorkers rely upon. So our condolences to the members who have passed, but also thank you to all your members for the continuing

work that you do.

I also want to mention, because I think this is the first hearing he was not able to part of, our dearly beloved brother and someone who was like a dad to Henry Garrido, Oliver Gray used to be very much engaged in these discussions. He didn't pass from COVID, but he did leave us last summer. So I just want to just give him a moment of silence in this hearing because Oliver Gray --

(Zoom interruption.)

CHAIRWOMAN KRUEGER: Everyone else please go on mute. Sorry. Go on, John.

SENATOR LIU: Just a very quick moment of silence for Oliver Gray, who contributed so much to not only DC 37 but our city and state and indeed nation.

(Moment of silence.)

SENATOR LIU: Thank you.

I wanted to say a few things about what Senator Savino had already started talking about, which is the early retirement incentive. DC 37, as Henry mentioned,

already gave $160 million towards staving off layoffs of employees that are needed. The City of New York needs these employees. And as always, the union steps up to help out. In the case of early retirement incentives, that is something that could be used so that layoffs could be avoided.

I think the distinction here that needs to be made, in the case of the City of New York they've asked for a fiscal note, which is a cost estimate of how much the early retirement incentive would cost the city eventually in terms of future pension obligations, et cetera. And so that's what the city is considering alongside the union.

As far as state employees, the Governor has not said anything about -- at least to my knowledge, has not said anything about early retirement incentives for state employees. You know, he hasn't talked about layoffs per se, but that's something that needs to be considered in the future.

Many of our colleagues in the Senate have talked about early retirement incentives

for their local government employees. That's something that those local governments need to consider. Whether it be a town or a county government, it has to be considered how much the fiscal impact on the state pension plan -- which they are part of -- would be.

So just like the City of New York asks for a fiscal note for the city pension plans, those local governments also need to ask for the same kind of cost estimates. Because early retirement incentives are not free. They may be a better solution to layoffs, but they're certainly not cost-free.

Thank you, Madam Chair.

CHAIRWOMAN KRUEGER: Thank you, John Liu.

Assembly, do you have anyone left?

CHAIRWOMAN WEINSTEIN: Yes, I just wanted just a few seconds to thank my friends for testifying here today. And I want to join with my colleagues in offering condolences to all of the members who really put themselves on the frontline, and both

those who fell victim to COVID-19 and survived and may be suffering, continuing to suffer and those who unfortunately gave their lives to help New Yorkers on the frontlines.

I appreciate, you know, not just for myself, but on behalf of all of our colleagues, appreciate the work that your members do and very much appreciate the time that you're here with us today to share your comments. Thank you.

CHAIRWOMAN KRUEGER: Thank you. And I also want to thank you all for being with us.

And of course you know, but I want everyone to know, we read the testimony, our staffs read the testimony. And we take these issues very seriously. So if anyone thinks, you know, we gave them three minutes and that was all the attention we paid, I hope you understand that we do these giant budget hearings, we try to get as much participation as possible across the state.

And the good news about Zoom, everybody does seem to come to these hearings, they stay all day, they have

questions. And so we've got to get stricter with our time limits just because there are so many people who do want to tell us things.

But all the testimony is up online, available to the public and the Senate and the Assembly and their staffs.

So again, thank you very much on behalf of all of your workers and all the amazing work you do for the State of New York every day. Thank you.

And now I'm going to go to the next panel --

THE MODERATOR: I believe Assemblywoman Giglio has a question before we move on.

CHAIRWOMAN KRUEGER: Helene, is that okay with you?

CHAIRWOMAN WEINSTEIN: Yes. A late starter, Assemblywoman Giglio.

CHAIRWOMAN KRUEGER: I didn't see a hand up, I'm sorry.

CHAIRWOMAN WEINSTEIN: Can we go to the Assemblywoman?

ASSEMBLYWOMAN GIGLIO: Yup, I'm trying

to start my video.

Okay, I want to thank you all too. I mean, having my brother-in-law be in one of the facilities -- and the care that the state employees give to the people that are within the facilities is unsurpassable, and you are very much appreciated. And it kills me to see the cuts. And it kills me to see what's happening to our vulnerable population and to the service workers in the industry. And I will do everything that I can to make sure that the budget is maintained and that your workers are cared for.

So I just want to thank you.

MS. TURNER: Thank you.

MS. DiANTONIO: Thank you.

MR. GARRIDO: Thank you.

CHAIRWOMAN KRUEGER: Thank you. So now we will excuse you, and we'll move to Panel B, the organization of New York State Management/Confidential Employees, Barbara Zaron, and the Retired Public Employees Association, Edward Farrell.

Good evening.

MR. FARRELL: Good evening.

CHAIRWOMAN KRUEGER: I see you, Ed; I don't see Barbara. Oh, there's Barbara coming along.

MS. ZARON: I wasn't able to unmute.

CHAIRWOMAN KRUEGER: I know. It's personally messing with everyone today. There she is.

MS. ZARON: Okay, got it.

CHAIRWOMAN KRUEGER: Okay, are you ready?

MS. ZARON: I am ready, thank you.

Thank you for the opportunity to testify today on our workforce concerns. I'm really happy to see you folks, and I feel like déjà vu all over again.

We're here again asking for our retiree parity payment bill. Thank you, Senator Gounardes, for introducing it, and in the Assembly Pat Fahy is introducing it for us. This will provide a token payment to M/C retirees who never received any payment for the 2009 and 2010 salary withholdings. And thank you to RPEA for your support.

We're here also -- that's the good -- that's the good stuff. We're here also to oppose the Governor's proposals related to the state retirees health insurance so-called reforms. Specifically, elimination of the Medicare Part B IRMAA reimbursement, imposition of a cap on state reimbursement of Medicare Part B standard premium this year at 148.50, and implementation of a differential healthcare premium contribution to new civilian hires at retirement.

This is probably the eighth year that we're here saying no to these things. And fortunately, in our perspective, you, the Legislature, have also refused to include it in the budget.

So the other major issue that our M/Cs have asked us to talk about is you already heard that salary increases were deferred this year, and that was true for the M/C employees as well. M/Cs also took another hit in April of 2020; that is the deferral of their performance advances, which are their steps in the salary schedule, and longevity

payments, which only Grade 17 and below M/Cs are eligible for.

So we think this is unfair. We think these payments need to be paid. And there should be full restoration of the deferred 2020 performance advances and longevities. Future salary increases -- because we need to look to the future -- should be equal to union-represented, with optional longevity payments for M/Cs above Grade 17, and leave accruals should be at the same level as other employees.

We recognize the fiscal challenges we're all facing, but M/Cs should not be expected to bear a larger share of the burden of producing savings. They want equity and equality while increasing demands are put on their shoulders. M/Cs always step up, but they are near or at the breaking point and are planning retirement, which raises a series of issues about managing the workforce and state programs and services, current and future.

And I did it in three minutes.

CHAIRWOMAN KRUEGER: Very nice. Thank you.

MS. ZARON: Thank you.

CHAIRWOMAN KRUEGER: And Ed?

MR. FARRELL: Yes.

CHAIRWOMAN KRUEGER: Hi.

MR. FARRELL: Hi. Happy to be here. Thank you very much.

CHAIRWOMAN KRUEGER: Thank you.

MR. FARRELL: Chairwoman Krueger, Chairwoman Weinstein, members of the committee, I'm the executive director of the Retired Public Employees Association. We represent the interests of the 500,000 retirees from the New York State Retirement System.

And you probably know that 80 percent of us stay right here in New York. You see us in the district; you know who we are. We're an important part of the community, both the fabric of the community and we contribute financially to the well-being of the community as well.

I'll just quickly talk about this,

because it's been brought up several times. And I thank you for your past support about the Governor's proposed cuts in NYSHIP as it relates to retirees.

Now, I said there are 500,000 retirees. Half of them are in NYSHIP. So this budget proposal has profound implications for retirees in New York. Capping the reimbursement rate for Medicare -- you know what a cap does. And over time, people will just lose money. And it's not a good thing.

And it's important to point out that the average retirement benefit is $24,000. So this is not the place to go to look for ways to raise money.

Same thing, we also oppose the IRMAA proposal. And you've been supportive in the past, and we thank you for that. And we hope you will do it again.

There are just a couple of things I want to touch upon in our legislative program which have fiscal implications. The first of which, you may be aware of, is retiree access

to skilled nursing facilities. If you are a retiree in the Empire Plan and you need to go to one of these facilities, you get 20 days coverage. If you are an active employee in the Empire Plan and you need to go to one of these, you can get 120 days.

You know, it's just illogical. And if anyone is going to go to a skilled nursing facility, it's probably going to be a senior more so than an active employee. So we urge you to take a look at that and perhaps fix it.

The survivors benefit has not increased in 50 years. We ask for a modest increase in that. It's something that could be addressed.

The full reimbursement of prescription drugs -- there's legislation on all of these, by the way. But for the Medicare Part D, when that came into effect, there was a decision by Civil Service not to reimburse the IRMAA piece of Medicare prescription Part D for those in NYSHIP.

We strongly support Barbara and other

people who have mentioned the M/C situation. That's something that definitely needs to be addressed.

And in closing, I just want to point out the Governor says he has to do these things because we're not living within his 2 percent cap. If you look at the cost of NYSHIP healthcare over the last three years, it comes in at 2.8, and that includes the actives and the retirees. So there's no premise to think that we are in fact driving a state deficit, and that's a very weak argument.

So I thank you.

CHAIRWOMAN KRUEGER: Thank you.

Let's see. Any Senators who have any questions?

All right. Helene, any Assemblymembers?

CHAIRWOMAN WEINSTEIN: No, I do not have any Assemblymembers. I would just remind Barbara Zaron that it is Groundhog's Day.

(Laughter.)

MS. ZARON: That's very funny.

CHAIRWOMAN KRUEGER: Thank you.

People were complaining on Staten Island that it was videotaped and they didn't actually get to see it live.

SENATOR SAVINO: It's true.

CHAIRWOMAN KRUEGER: Diane, you may have a problem at home.

SENATOR SAVINO: It's true. But it's not as if, you know, Staten Island Chuck actually whispers in Kenny Mitchell's ear. He's a rodent, not a meteorologist.

(Laughter.)

CHAIRWOMAN KRUEGER: It's been a long day. But thank you very much, Barbara, and thank you, Ed.

MS. ZARON: Thank you.

MR. FARRELL: Thank you. And thank you for your support.

SENATOR SAVINO: Don't worry, we'll protect the retiree stuff, because we're all close to being retirees.

MS. ZARON: We're thinking of you.

CHAIRWOMAN KRUEGER: Thank you.

MR. FARRELL: Thank you.

CHAIRWOMAN KRUEGER: For our next panel -- we're up to Panel C, for those of you following along -- we have the New York Immigration Coalition, the Center for New York City Affairs at The New School, the National Employment Lawyers Association, and the Manufacturers Association of Central New York.

These may not all be exactly the same theme, but we're doing our best to try to group you together.

First up, Vanessa Agudelo, manager of member engagement, New York Immigration Coalition.

MS. AGUDELO: Thank you. Good evening, everyone. My name is Vanessa Agudelo, and I am the manager of member engagement for the Hudson Valley at the New York Immigration Coalition, an umbrella policy and advocacy organization that works statewide with over 200 immigrant-serving member organizations. Thank you to the legislative members and both chairs for

convening this important hearing allowing me to testify.

The COVID-19 crisis has and continues to hit Black, Indigenous, people of color, immigrant, and working-class individuals the hardest. In almost every way, immigrants and their families have been some of the hardest hit by the pandemic and the ensuing response. Immigrants risk heightened exposure to COVID-19 as essential workers and, when sick, suffer higher mortality rates.

Immigrants are over-represented in the industries hit the hardest by the economic downturn, and were therefore more likely to be left unemployed than the native-born workforce. And many immigrant families were shamefully and purposely shut out of federal relief efforts and continue to struggle.

COVID has not only taken far too many New Yorkers from us, but it has also wreaked havoc on our economy. New York State faces a $60 billion deficit. We understand the need to manage this deficit but reject any effort that would see the budget balanced on the

backs of the working class and low-income New Yorkers. Any cuts to education, healthcare or other social service or safety-net programs will only exacerbate the effects of this pandemic on individuals and families across the state.

We are supporting the effort that will both support the workers that were excluded while also helping to close future budget gaps. Even under extreme economic conditions, we still have the ability to feed two birds with one seed.

The Invest in Our New York Act offers a package of ideal legislation that could raise upwards of $15 billion annually. This Legislature and the Governor can and must deliver long-overdue relief. We and our members have received nothing.

This is why our coalition is asking for $3.5 billion to create a fund to provide emergency financial relief to immigrant workers, individuals recently released from incarceration or immigration detention, and businesses or self-employed individuals who

lack documentation to apply for small business relief.

This fund would provide flat-rate monthly cash payments direct to families, based on $750 per week to each worker -- what a typical low-wage worker with Unemployment Insurance receives.

It would offer monthly payments retroactive to the start of the COVID-impacted unemployment crisis, and continuing at least through the end of 2021, like Unemployment Insurance, with triggers to continue the program thereafter.

It would also offer flexible application and proof requirements given the urgent crisis situation. This would include self-attestation and information that off-the-books workers are able to provide. Documents for proving identity can be the same as those for getting driver's licenses under Green Light.

Our healthcare workers, grocery store workers, delivery workers, transit workers and all other frontline workers have helped

maintain our way of life while paying the ultimate price of disproportionate deaths due to COVID-19.

Meanwhile, many wealthy New Yorkers continued to flourish. New York State's 120 billionaires saw their combined wealth rise by over $77 billion in the first months of the pandemic. We must demand that those who have profited the most during this crisis pay their fair share to support the recovery of the state.

Once again, thank you for convening this extremely important hearing and allowing me to testify. Myself and our entire organization looks forward to continuing to work with you all to come up with solutions that ensure that everyone enjoys full and equal opportunity to recover from the threat of this virus and the worst potential economic downturn since the Great Depression.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Next, James Parrott, professor, Center for New York City Affairs at The New School.

DR. PARROTT: Good evening --

CHAIRWOMAN KRUEGER: Good evening.

DR. PARROTT: -- distinguished Senators and members of the Assembly. James Parrott is my name. I'm the director of economic and fiscal policies at the Center for New York City Affairs at The New School. Thanks for the opportunity to testify on workforce issues.

I've been closely examining the impact of COVID-19 on the state's economy and its workforce. New York State was the early epicenter of COVID cases and has been more cautious than other states in reopening. As a result, the pandemic has taken a greater jobs toll in New York State than any other state except Hawaii.

As of early January, over 2.4 million state residents were receiving Unemployment Insurance. That's one out of every four New Yorkers in the labor force before the pandemic. Part-time work by workers who would like to work full-time has soared during the pandemic as businesses struggle to

reopen. There are an estimated 600,000 involuntary part-time workers in New York.

Partial weeks of unemployment benefits soared to an historical high of 25 weeks -- 25 percent of all weeks compensated during the last three months of 2020. That's up from 9 percent the year before.

I want to focus on the problems with the partial UI system. Fortunately, Governor Cuomo and the Labor Commissioner acted two weeks ago to lessen the penalty for workers going back to work part-time. That was a significant improvement, but it doesn't go far enough and it wasn't intended as a permanent fix. It was a temporary fix.

Governor Cuomo proposed a permanent fix that incorporates a partial benefit credit, an amount of earnings a worker can receive without any benefit reduction. The interim system provides a form of partial benefit credit but it's supplied in a very clunky way, given the constraints of an antiquated computer system.

The Governor's proposed permanent fix

provides for a cleaner application of the credit, but it is not as beneficial to workers as a bill passed by the Senate and the Assembly with overwhelming support in the last two weeks. The bill, sponsored by Assemblymember Stirpe and Senator Ramos, would institute a partial benefit credit equal to 50 percent of a worker's weekly UI benefit. The Governor's bill only applies a 40 percent partial credit. The difference between 40 and 50 percent means $143 each month to a part-time worker.

There's another difference between the Legislature's bill and the Governor's bill. The Legislature's bill would take effect in 30 days. The Governor's bill would take effect after a year. The difference that that makes when you add it up across the 600,000 unemployed workers is $2.8 billion. Eighty percent of this would come from the federal government.

So I urge you to act and act quickly to negotiate with the Governor to enact the Legislature's bill and put in place those

improved partial benefits. The time to do this is now, given the state of unemployment in New York.

Thank you.

CHAIRWOMAN KRUEGER: Thank you. Thank you, James.

Next, Miriam Clark, chair, National Employment Lawyers Association.

MS. CLARK: Thank you, Senator Krueger, and thank you, Assemblymember Weinstein, for allowing me to testify this evening on behalf of NELA/New York.

Tonight I want to talk about protecting workers who complain about what they reasonably believe to be unsafe working conditions or unlawful working conditions.

New York does have a whistleblower law, a so-called whistleblower law, which is Labor Law 740. You could call it the Whistleblower Non-Protection Act, because it actually covers so few people. It was enacted in 1984, and it only protects a very, very small minority of workers who complain.

It protects an employee who complains

of conduct that is both a proven or provable violation of law, rule or recognition, and a provable, substantial, specific threat to public health or safety. Both of these prongs have to be met, and the employee has to be able to prove that both of these conditions exist.

So for example, in a leading case, a physicist working at an atomic lab reasonably believed that he and his coworkers were being exposed to dangerous levels of radiation, and he reported it to the DOE and he got fired. The court held that he was not protected because he personally could not prove that there were unlawful levels of radiation. The employer could have proved it by doing an investigation, but it refused to do it.

Lots of employees also get fired because they complain of unlawful conduct. And that unlawful conduct, if it's not in violation of a law, rule or regulation, does not -- that complaint does not protect the employee.

The law essentially lay dormant for

many years, and then came the COVID pandemic. And suddenly thousands and thousands of workers were being exposed on a daily basis to conditions that they really thought were dangerous. Hospital janitors were worried about not having enough PPE. Retail workers were worried about not enough social distancing. Factory workers were worried about working in close quarters. And any of those people who complained were not covered by the whistleblower law.

So the Legislature has taken some steps to ameliorate the situation with regard to healthcare workers, with regard to public employees. But in general, for thousands and thousands of New York workers, the decision to stand up and report something that they reasonably believed to be dangerous or unlawful means that they are likely to lose their job.

Many other states, such as New Jersey, have robust protection for those who speak out, but not New York.

There are two excellent bills that

would alleviate this situation, one in the Senate, sponsored by Senator Ramos, that has passed the Senate. There are excellent bills in the Assembly, one which is sponsored by Assemblymember Weinstein. And we look forward to working with the Legislature and the Governor to pass legislation that will save not only the jobs but the lives of thousands of New Yorkers.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

And last on this panel, Martha Ponge, director of apprenticeship, Manufacturers Association of Central New York.

MS. PONGE: Thank you. Good evening, Senator Krueger and Assemblymember Weinstein and the committee members. Thank you for the opportunity to speak here tonight.

My name is Martha Ponge, and I represent the Manufacturers Alliance of New York State, which is comprised of seven manufacturing associations serving each of the state's Economic Development Regions. Our work through the Manufacturers

Intermediary Apprenticeship Program, known as MIAP, supports equitable access to registered apprenticeship for all individuals regardless of their work experience or their academic qualifications.

In order to continue this highly successful and effective program and to meet the growing needs of employers across our state, we respectfully request the restoration of the legislative line item for MIAP for $750,000 in this year's budget.

COVID has exposed the fragility of careers in industry sectors such as hospitality and food service. Conversely, manufacturing and high-tech fields are still providing rapidly growing employment opportunities. Today nearly 51 percent of New York State residents earn less than $40,000 per year. And as we emerge from COVID, access to springboard careers with an average salary of $71,000 a year is more important than ever.

The employment disruption that was caused by the pandemic has provided an

immediate opportunity for manufacturers to recruit unemployed and underemployed individuals, and MIAP will help those employers facilitate the recruitment, the up-skilling, and the retention of these new workers.

Statewide, MIAP currently supports over 200 companies and 25 different trades. And despite the adverse effects of COVID, this year alone we expect to add over 150 apprentices and award journey worker certifications to over 40 apprentices.

During the pandemic, employers supported by MIAP maintained over 98 percent of all active apprentices, while increasing career apprenticeship activity by over 80 percent. MIAP successfully transitioned to 100 percent digital support, allowing employers to maintain access to on-the-job learning and related instruction services.

In 2021, the Alliance will develop pilot programs with a laser focus on youth and adults from minority and low- and moderate-income communities, creating

apprenticeship pathways directly from high school and rapidly up-skilling individuals displaced as a result of COVID. Already this year our Rochester partner has matched 65 youths with 32 companies, an increase in company participation with youth by over 500 percent from last year.

Our work over the past year has grown to support other industry sector associations, such as Big I NY and the Semiconductor Association, in their efforts to establish themselves as sponsors of registered apprenticeship. Our work with these member associations is anticipated to bring 3400 additional small and medium-sized businesses to the table in the next 12 to 18 months.

Again, I'm here to respectfully request the restoration of the legislative line item for MIAP of $750,000 so that we may continue this very critical work. And I thank you very, very much for your consideration.

CHAIRWOMAN KRUEGER: Thank you very

much, all of you. I don't see any hands up, so I have a question. And we'll see if anyone else decides they want to jump in.

So James Parrott, you talked about the way that the way the Governor's budget writes in the starting up of the part-time unemployment, we're going to miss out on a huge amount of federal money. Why would we want to do that?

DR. PARROTT: Well, I don't think that we would want to do that. It would bring -- you know, as the Governor has very forcefully made the case, New York State needs to receive more federal funds. So by having, you know, a 50 percent disregard as opposed to a 40 percent disregard in the Governor's approach means $140 a month to an unemployed worker, you know, times 600,000 unemployed workers who are working part-time at this point.

You know, all of the -- again, the numbers are so astounding that a lot of people -- it hasn't registered with a lot of people: 2.4 million New Yorkers received

unemployment benefits in early January. The number is not that much different today, if we have the more recent data.

Twenty-five percent of people are only able to go back to work part-time. They're still receiving some unemployment benefit, but only part-time. So any improvement that the state can make -- the sooner the better, obviously -- makes a huge difference to the workers.

I didn't have an opportunity to point out that two-thirds of the unemployed New York workers are persons of color. They tend to be low-income workers who are working in industries that are the most heavily affected by this. That will -- you know, that additional money, particularly the federal part, will help spur New York's economy and will help us recover sooner rather than later.

CHAIRWOMAN KRUEGER: Thank you. And whoever gave me 10 minutes, we're all taking three minutes. So thank you.

So my time is up, but I see I have

encouraged an Assemblywoman to raise her hand.

CHAIRWOMAN WEINSTEIN: Yes, so we'll go to Jo Anne Simon.

ASSEMBLYWOMAN SIMON: Sorry, that little --

CHAIRWOMAN KRUEGER: For everyone, it's just doing that tonight.

ASSEMBLYWOMAN SIMON: It is.

So thank you, Mr. Parrott, you have just answered the question I had for you. I appreciate your testimony very much.

I have a question for Ms. Clark. You testified about whistleblower protection, which is something I've been very concerned about. And I'm wondering if you have a way of sort of quantifying, for example, how that could end up costing New York money. So whether it's unemployment, whether it is people not working and needing to use other benefits.

And also do you have an opinion as to, you know, the limitations that we have on unemployment -- one is part-time

unemployment. But are there people who should be protected by unemployment as well?

MS. CLARK: Those are great questions, Assemblymember Simon.

Taking the second one first, I mean, certainly everyone should be protected by unemployment. I know that undocumented workers, gig workers are especially hard-hit by the pandemic and should absolutely be protected.

In terms of quantifying how many people are affected by the whistleblower law -- the lack of a whistleblower law, there's no real way to do it, except that I think I heard earlier from the Department of Labor that 43,000 people complained of unsafe working conditions.

So every single one of those 43,000 people, unless they're public employees or unless they're healthcare workers, are subject to being terminated by their employers because they complained. And those people, when they get terminated, of course they apply for unemployment. They should be

eligible for unemployment.

And they're obviously either -- at this point, leaving the workforce, it's very difficult for them to return, so of course it's an enormous drain on the UI system as well.

ASSEMBLYWOMAN SIMON: Thank you.

CHAIRWOMAN KRUEGER: Okay. I believe we have now completed this panel. Thank you very much for being with us tonight. And again, we read everyone's testimony and we distribute it to everyone.

So our next panel is Panel D, the National Day Laborer Organizing Network, Nadia Marin-Molina; the Workers Justice Project, Ligia Guallpa -- I apologize in advance for all the names I get wrong -- and Transnational Villages Network, Marco Castillo.

Good evening, everyone.

MS. MARIN-MOLINA: Good evening.

CHAIRWOMAN KRUEGER: Okay, so first up is Nadia.

MS. MARIN-MOLINA: Hi, good afternoon.

My name is Nadia Marin-Molina. I'm the co-executive director of the National Day Laborer Organizing Network.

Thank you to the chairs for the opportunity to testify today.

NDLON is a national network with 12 member organizations in New York, specifically in New York City, Westchester and Long Island. Our mission is to improve the lives of day laborers, migrants and low-wage workers by building leadership and power.

From my written testimony, which is more detailed, I'll just summarize some of the points and expand on some of the ones you may not know.

Our main priority today is to say that it's time for New York to include excluded workers. We want to express the urgent need to create an Excluded Worker Fund within the New York State budget which would deliver income replacement for people who are excluded from unemployment benefits, which is what a lot of the conversation has been

around. It includes undocumented and recently incarcerated workers and others in the cash economy.

You probably already know that people are suffering due to the pandemic and that many people are left out of COVID relief. An estimated 597,000 undocumented workers, daily laborers, street vendors and domestic workers have no safety net and can't access UI. They've been working and have been devastated in the past year.

You may also know that excluding certain groups makes no sense from a public health perspective. Day laborers and other excluded workers provide essential services such as delivery, cleaning and construction. When they're exposed to COVID, they work as well as they can and put their own lives at risk. And as a result, Brown and Black families have been devastated by illness and death.

So we need an Excluded Worker Fund in this year's budget, and I'll mention two more points that you may not know.

One is that day laborers and other undocumented workers contribute billions of dollars but are not allowed to receive a dollar in return. A quote: Over the past 10 years, $1.4 billion was paid in unemployment insurance taxes in New York based on the work of undocumented immigrants, on top of more than 1 billion in sales and property taxes, on top of what's contributed to the federal system.

We're asking that you remedy that injustice during the pandemic and during this budget.

The second thing that I'll mention that you may not know is that New York's day laborer centers are an unrecognized New York State workforce development program. They train community members for work, connect them with employers, set minimum wages, and are even second responders after disasters and blizzards, like today. They've distributed thousands of dollars, masks, boxes of food, and training.

Our member organizations work very

hard and are resourceful, but we can't fill the gap left by a state and federal government that purposely and cruelly excludes undocumented and other workers from pandemic relief. We're asking that you include the Excluded Workers Fund during the budget.

The billionaires have grown wealthier during the pandemic, and taxing the wealthy can be used to create this fund and other community needs as well. There's no better time than during the budget. Other states and localities have done something. We're wholeheartedly supporting the creation of an Excluded Workers Fund for New York's workers and for all of our public health.

Thank you.

CHAIRWOMAN KRUEGER: Thank you very much.

Our next guest is the Workers Justice Project.

MS. GUALLPA: Thank you. Thank you so much for the opportunity for speaking today.

My name is Ligia Guallpa. I am the

executive director of the Workers Justice Project, one of the few workers centers that stayed open during the pandemic to provide emergency relief services to more than 18,000 day laborers, domestic workers, delivery workers who were left out to die without economic relief, without unemployment insurance, without medical insurance, without paid sick time leave, without workers' compensation, and without essential workers' rights.

While hundreds of workers were laid off, workers in industries like construction, cleaning, restaurants and delivery workers continued to increasingly work in dangerous and deadly working conditions. In New York there is a growing number of working people, especially low-wage and Black and immigrant communities, who were forced to take jobs -- gig jobs, specifically -- with no essential rights. Just this month, actually, the city reported that the number of gig workers has increased by 60 percent.

You might ask yourself why more and

more New Yorkers are entering the gig economy. The answer is very simple. These are the only jobs available in the market, and the only jobs that New Yorkers can rely on to survive this crisis.

However, these jobs do not offer prosperity nor better working opportunities. These jobs are turning into one of the most deadliest, unpaid and most dangerous jobs in our state and in our city.

Let's just look at some of the fastest-growing industries where mostly immigrant, undocumented and indigenous communities have been working as essential workers throughout the pandemic.

The most recent, more than 80,000 app-based food delivery workers are hired as gig workers by giant companies like DoorDash, Grubhub, Uber and many others. While these companies are making billions in pandemic profits, they are denying the most essential worker protections, such as the right to be paid sick-time leave, minimum wage, the right to have a safe workplace and access to

bathrooms.

In addition to being denied basic worker protections, the NYPD have failed to respond to multiple reports of violent e-bike robberies and traffic crimes. Only this month, more than three delivery workers have been killed, and every day they're violently attacked. New York has failed to protect them. Our state has allowed these companies to abuse and exploit these workers at any cost.

Domestic workers. There's 200,000 domestic workers in New York, mostly immigrant and undocumented, who were left out to clean and disinfect New Yorkers' homes without safety equipment, without essential rights. There are more than 72,000 immigrant construction workers working as day laborers, mostly -- some of them, the majority, working as day laborers, who were also left out to do this job without any safety protections. During COVID many were fired for getting infected by COVID, and thousands of wages are being and continue to be stolen by wealthy

developers and contractors who are building our state and our city.

These are some of the industries that our state has failed to invest and protect. We're here to demand that included excluded workers are provided economic relief and essential protections. Day laborers, domestic workers, delivery workers must be part of your budget priorities during this --

THE MODERATOR: Excuse me, your time is running out.

MS. GUALLPA: -- year's budget process. Thank you.

CHAIRWOMAN KRUEGER: Thank you. Thank you very much.

Next, Marco Castillo, Transnational Villages Network.

MR. CASTILLO: Thank you very much. Good evening. My name is Marco Castillo. Thank you for the opportunity to testify at today's Workforce hearing.

I am the founder of {in Spanish}, the Transnational Villages Network, which is a nonprofit organization and a network of local

groups and committees formed and by led by indigenous immigrants living in the tri-state area, but mostly in New York.

I'm also here as a member of the Fund Excluded Workers Coalition.

I am here to testify today in support of the Excluded Workers Bailout Fund, which would deliver desperately needed income replacement assistance for New Yorkers that have been ineligible for unemployment benefits. This includes New Yorkers that are undocumented and recently incarcerated and indigenous immigrants, as well as those who operate within the cash economy and families that have lost their primary breadwinners due to the pandemic.

Senator Jessica Ramos has introduced a bill to create this fund, and Assemblymember Carmen De La Rosa will introduce an equivalent bill in the Assembly.

I particularly want to say, according to the Pew Hispanic Center, Mexicans represent 14 percent of the Hispanic population in New York State, which

approximately would be half a million. From which, according to my organization, we believe that more than 60 percent -- which would be approximately 300,000 people -- would come from indigenous communities.

These indigenous immigrants have been historically invisible for the federal government, for the State of New York and for the City of New York in so many policies. Many of our members don't speak Spanish as their first language. They struggle to understand -- they struggle during the pandemic to understand any communication that came from the state. They were afraid of reaching out to hospitals. And they continue to work as frontline workers, delivering food, serving people with groceries, cleaning services. And in return, they have received absolutely nothing.

We're talking about families that right now are moving to live with relatives or thinking about going to a shelter or going to the street, after working and exposing themselves and going through coronavirus by

themselves, many times at home with no other form of support.

This is the case not only of indigenous immigrants from Mexico, but for many other indigenous immigrants from other countries that are in New York City.

We think that the Assembly, the Senate and the Governor must deliver long-overdue relief, and our coalition is asking for this $3.5 billion to create a fund that will deliver flat-rate monthly cash payments to families and include payments for the unemployment crisis and uses flexible application and proof requirements, given the urgency for this crisis.

Thank you very much.

CHAIRWOMAN KRUEGER: Thank you very much.

And do we have any Senators or Assemblymembers who wish to ask questions?

All right, I don't see a hand, but I see signaling from Senator Ramos. So I'm going to pass it to her. Senator Ramos, chair of the Senate Labor Committee.

SENATOR RAMOS: Yes, thank you so much.

And I want to thank the panelists for testifying. Obviously I am not only in full support of supporting our excluded workers with economic relief, I carry the bill, as Marco mentioned.

I'm very thankful to you guys for all of the organizing that has been done. I have to say, as a partially indigenous Latina and an Andean woman, I'm really taken aback by all the organizing that has been taking place throughout the pandemic.

And I was wondering if each of you or any of you can speak to how the misclassification of workers during this time has impacted the different workforces that make up our communities in Queens, in Brooklyn and beyond. You know, because very oftentimes our day laborers, our deliveristas, our delivery workers, domestic workers, sex workers, right -- all of these folks aren't appropriately classified under the law and can't access unemployment

benefits.

So can you talk a little bit more about the misclassification of workers?

MS. GUALLPA: Yeah, I can share a little bit and then I'm sure other colleagues have -- can speak about it.

I think one of the biggest issues that we have seen in New York in -- across New York State and in New York City, where there is large growing industries, has been that as many of the industries have shut down, such as restaurant industries, many workers, mostly immigrant, undocumented indigenous workers, have been fired and forced into looking for new ways of working.

And it is not a surprise that many companies and many employers are looking to give workers less hours and treat workers differently without really providing benefits.

And what the pandemic has done has been it has created sort of this new economy where mostly the ones that are profiting and taking a big share of it has been big

corporations, such as the example of DoorDash and other companies.

And what they're doing is more and more is to hire workers more temporarily. And what that does is not only excludes them from accessing unemployment insurance, but also excludes them from basic protections such as having the right to a minimum wage. Some of the deliveristas, or delivery workers, they're --

SENATOR RAMOS: And there's so much wage theft. Sorry, Ligia, because we have seven seconds. There's a lot of wage theft going on as well, right?

MS. GUALLPA: Wage theft, unsafe working conditions, no minimum wage, no workers' compensation. All these issues have put workers at the edge of literally dying without any protections.

SENATOR RAMOS: Well, this is why we had to create the Workplace Fatalities Registry that we passed in both the Senate and the Assembly, because we haven't been counting how many people are dying on the job

in New York. It's unconscionable.

Well, thank you so much. It was great to see you guys. Thank you for everything you're doing.

MS. GUALLPA: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Well, unless someone else wants to raise a hand quickly, I'm going to actually announce that we are closing down our second hearing for the day.

I want to thank the last panel. As I've thanked every panel, please know that the full testimony you submit will be up online, available to all members of the Legislature and our staffs and the public to review.

And you can actually still submit testimony even after these hearings today. So you still have time to submit testimony if you're out there and you've been motivated to wish to submit something.

With that, I want to thank everybody who stayed with us off and on all day. Thank you to my chairs and my rankers in both

houses. We do not have a budget hearing tomorrow, so don't think you have to get up and tune into us at 9:30 tomorrow morning. We do have another budget hearing on Thursday, and that will be the Higher Education budget hearing.

So again, thank you all for your hard work and your participation.

If you're outside anywhere, get home very safely. A lot of snow upstate, I hear. Take care.

(Whereupon, the budget hearing concluded at 7:17 p.m.)