

1 BEFORE THE NEW YORK STATE SENATE FINANCE
2 AND ASSEMBLY WAYS AND MEANS COMMITTEES
3 -----

4 JOINT LEGISLATIVE HEARING

5 In the Matter of the
6 2021-2022 EXECUTIVE BUDGET ON
7 WORKFORCE DEVELOPMENT
8 -----

9 Virtual Hearing
10 Conducted Online via Zoom

11 February 2, 2021
12 3:46 p.m.

13 PRESIDING:

14 Senator Liz Krueger
15 Chair, Senate Finance Committee

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

18 PRESENT:

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

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

23 Senator Jessica Ramos
24 Chair, Senate Committee on Labor

Assemblywoman Latoya Joyner
Chair, Assembly Committee on Labor

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

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2-2-21

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

6 Senator Pete Harckham

7 Assemblywoman Carmen De La Rosa

8 Senator Brad Hoylman

9 Senator Roxanne J. Persaud

10 Assemblyman Phil Steck

11 Senator Diane J. Savino

12 Assemblyman Joe DeStefano

13 Senator George Borrello

14 Assemblywoman Judy Griffin

15 Senator Shelley Mayer

16 Assemblyman Harry Bronson

17 Senator John Liu

18 Assemblywoman Jo Anne Simon

19 Senator John W. Mannion

20 Assemblyman Colin Schmitt

21 Senator Mario R. Mattera

22 Assemblywoman Jodi Giglio

23 Senator James Tedisco

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

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

12 Today is the fifth of 13 hearings
13 conducted by the joint fiscal committees of
14 the Legislature regarding the Governor's
15 proposed budget for state fiscal year
16 '21-'22. These hearings are conducted
17 pursuant to the New York State Constitution
18 and Legislative Law.

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

1 State Governor's Office of Employee
2 Relations.

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

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

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

24 I'm going to pass it quickly to

1 Tom O'Mara to introduce the Republican
2 members.

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

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

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

12 Back to you, Assemblywoman.

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

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

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

1 who is our ranking member on the Government
2 Employees Committee.

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

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

8 CHAIRWOMAN KRUEGER: Thank you.
9 So the rules of the road. The
10 government representatives each get
11 10 minutes to testify. The chairs of the
12 committees get 10 minutes to ask them
13 questions. The rankers get five minutes to
14 ask them questions. And then everyone else
15 gets three minutes to answer {sic}. And the
16 commissioner needs to give the answers within
17 those time frames as well. We'll walk
18 through that a little bit later if we get
19 confused.

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

23 Good afternoon.

24 COMMISSIONER REARDON: Good afternoon.

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

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

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

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

1 bottom of my heart, I thank you.

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

14 To give you some context about this
15 crisis, since the COVID-19 pandemic began in
16 early March the Department of Labor has paid
17 over \$65 billion in unemployment benefits to
18 more than 4 million New Yorkers in just over
19 11 months. In 2019, we paid just
20 \$2.1 billion in total for the entire year.
21 In that context, we have paid over 30 years'
22 worth of benefits in just over 11 months.

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

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

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

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

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

1 Unemployment Insurance claims.

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

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

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

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

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

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

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

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

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

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

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

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

9 2020 pushed many state agencies to
10 their limits, including the Department of
11 Labor. However, we rallied together to
12 weather this enormous storm, got the job done
13 ahead of most states, and frankly, overall,
14 it made us better as an agency. We recognize
15 that there's more to come, and we're prepared
16 to meet those challenges. We've learned many
17 valuable lessons that have strengthened us as
18 an agency. We've improved our communication
19 and our technology. We have a new, renewed
20 vigor and focus, and we have more initiatives
21 to come.

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

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

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

5 COMMISSIONER REARDON: I know.

6 CHAIRWOMAN KRUEGER: You get extra
7 points. Thank you.

8 COMMISSIONER REARDON: I saved them
9 for you.

10 (Laughter.)

11 SENATOR RAMOS: I'll take them!

12 CHAIRWOMAN KRUEGER: Exactly.

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

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

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

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

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

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

1 start certifying for that.

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

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

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

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

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

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

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

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

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

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

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

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

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

But we are trying to make this work as

1 best we can within the existing law.

2 SENATOR RAMOS: Thank you.

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

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

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

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

24 SENATOR RAMOS: So when -- so when?

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

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

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

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

1 4 million New Yorkers. And we are very proud
2 of that number.

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

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

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

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

7 SENATOR RAMOS: That's how government
8 works.

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

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

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

1 claimants could be losing up to 13 weeks of
2 benefits?

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

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

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

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

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

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

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

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

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

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

3 What has been happening, and it
4 happened in the recession in 2008-2009, the
5 federal government watches the economy and
6 they decide people will still need benefits
7 for X period of time, and they extend the
8 benefits. Ultimately, in 2008-2009, it was
9 99 weeks of unemployment. So we are watching
10 this carefully to make sure to see what
11 happens. We are very hopeful that they will
12 pass the law that they're looking at right
13 now, which would extend benefits into
14 September.

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

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

19 COMMISSIONER REARDON: Thank you.

20 CHAIRWOMAN KRUEGER: Thank you.

21 Second rounds are available to chairs.
22 Assembly.

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

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

4 COMMISSIONER REARDON: Good afternoon.
5 Nice to see you.

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

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

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

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

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

10 So we came into this pandemic with a
11 \$2.6 billion balance in the trust fund, which
12 at the time, of course, was thought to be
13 very healthy. Then the pandemic happened and
14 then we had to start borrowing eventually.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 connected to good family-sustaining jobs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 ASSEMBLYWOMAN JOYNER: Okay, thank
9 you.

10 CHAIRWOMAN WEINSTEIN: Thank you.

11 We go to the Senate.

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

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

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

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

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

6 COMMISSIONER REARDON: We received
7 over 36,500 complaints on the COVID hotline.
8 And I'm very happy to say that approximately
9 80 percent of those complaints were resolved
10 with compliance.

11 Particularly at the beginning, as you
12 can imagine, there was a lot of confusion
13 about can I stay open, should I close, what
14 kinds of protections do I have to provide,
15 can people not come in if they don't feel
16 safe. So we did a lot of work with employers
17 and explained a lot of the new regulations.
18 And for the most part, as you can see, over
19 80 percent of them complied.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 SENATOR GOUNARDES: Sure, great.

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

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

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

10 COMMISSIONER REARDON: So --

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

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

18 SENATOR GOUNARDES: Great. Great,
19 thank you.

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

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

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

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

8 COMMISSIONER REARDON: I understand.

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

15 I had a couple of questions. Mainly,
16 I've read recently about California having
17 massive issues with pandemic UI fraud, over
18 \$11 billion confirmed, over \$19 billion
19 suspected. What are the numbers that we're
20 concerned with here in New York when it comes
21 to that?

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

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

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

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

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

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

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

13 COMMISSIONER REARDON: Oh, sorry
14 {inaudible overtalk}.

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

17 COMMISSIONER REARDON: \$9.5 billion
18 prevented.

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

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

1 going to help us even more. But we do know
2 9.5 prevented.

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

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

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

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

18 ASSEMBLYMAN SCHMITT: Thank you.

19 CHAIRWOMAN KRUEGER: Thank you.

20 Next is Senator Borrello.

21 George, are you there?

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

24 CHAIRWOMAN KRUEGER: Okay, we can hear

1 you.

2 SENATOR BORRELLO: Okay, hello.

3 COMMISSIONER REARDON: Hi.

4 CHAIRWOMAN KRUEGER: There you are.

5 COMMISSIONER REARDON: There you are.

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

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

15 COMMISSIONER REARDON: You're welcome.

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

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

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

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

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

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

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

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

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

16 COMMISSIONER REARDON: I think so.

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

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

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

12 COMMISSIONER REARDON: Thank you.

13 CHAIRWOMAN KRUEGER: Thank you.

14 SENATOR BORRELLO: At 25 seconds.

15 CHAIRWOMAN KRUEGER: Thank you.

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

21 And we go to Assemblyman Ra for five
22 minutes.

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

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

7 COMMISSIONER REARDON: Yes.

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

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

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

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

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

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

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

24 COMMISSIONER REARDON: So a couple of

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

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

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

24 But this is an example of, you know,

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

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

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

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

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

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

8 Eventually we realized we were not
9 staffing our way out of this and we had to
10 get third-party vendors. We had, I think,
11 four vendors, and I think at the height in
12 August we had I believe 2800 vendors. But we
13 are now beginning to reduce, we're down to
14 1300.

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

24 But it was simply a numbers game.

1 There was no way we could do it without them.

2 ASSEMBLYMAN RA: Okay, thank you,
3 Commissioner.

4 COMMISSIONER REARDON: Thank you.

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

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

16 And now to the Senate. Thank you,
17 Liz.

18 CHAIRWOMAN KRUEGER: Thank you.

19 Senator Diane Savino.

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

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

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

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

18 COMMISSIONER REARDON: Thank you.

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

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

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

9 COMMISSIONER REARDON: Right.

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

19 COMMISSIONER REARDON: Sure.

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

24 COMMISSIONER REARDON: I favor it.

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

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

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

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

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

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

14 (Overtalk.)

15 COMMISSIONER REARDON: Absolutely.
16 Thank you.

17 SENATOR SAVINO: Thank you. Great to
18 see you.

19 COMMISSIONER REARDON: Nice to see
20 you.

21 CHAIRWOMAN KRUEGER: Thank you,
22 Senator.

23 Assemblymember.

24 CHAIRWOMAN WEINSTEIN: We go to

1 Assemblyman Steck for three minutes.

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

5 (Laughter.)

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

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

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

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

22 COMMISSIONER REARDON: Thank you.

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

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

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

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

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

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

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

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

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

7 So thank you for your support for that
8 program.

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

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

15 COMMISSIONER REARDON: Okay. Thank
16 you.

17 CHAIRWOMAN WEINSTEIN: Thank you.

18 We go to the Senate now.

19 CHAIRWOMAN KRUEGER: Thank you very
20 much.

21 Senator Pete Harckham, three minutes.

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

1 COMMISSIONER REARDON: Thank you.

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

4 COMMISSIONER REARDON: Good to see
5 you.

6 (Laughter.)

7 SENATOR HARCKHAM: Good to be seen.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 SENATOR HARCKHAM: Terrific. Thank
7 you very much.

8 COMMISSIONER REARDON: Thank you.

9 CHAIRWOMAN KRUEGER: Thank you,
10 Senator. Assemblywoman.

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

14 ASSEMBLYMAN DeSTEFANO: Good
15 afternoon, Commissioner.

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

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

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

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

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

24 ASSEMBLYMAN DeSTEFANO: Thank you.

1 Does the department have an estimate of the
2 labor force participation in New York in
3 2020?

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

9 ASSEMBLYMAN DeSTEFANO: Thank you.

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

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

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

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

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

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

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

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

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

1 COMMISSIONER REARDON: The number of
2 total recipients?

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

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

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

16 CHAIRWOMAN WEINSTEIN: To the Senate.

17 CHAIRWOMAN KRUEGER: Thank you very
18 much.

19 Senator Tom O'Mara, five minutes.

20 SENATOR O'MARA: Thank you.

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

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

3 COMMISSIONER REARDON: Yes.

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

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

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

1 choose to close, they had to close.

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

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

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

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

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

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

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

1 and see what the conversation was then.

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

4 COMMISSIONER REARDON: Sure. Thank
5 you.

6 CHAIRWOMAN KRUEGER: Thank you.
7 Assemblywoman.

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

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

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

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

6 So I'm wondering if the data has been
7 collected from the hearings in December and
8 whether or not there's any consideration to
9 extend the lowering of the threshold through
10 2022, or at least past November.

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

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

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

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

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

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

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

11 ASSEMBLYWOMAN GIGLIO: Okay. Thank
12 you.

13 CHAIRWOMAN KRUEGER: Thank you.

14 Our next questioner is Senator Brad
15 Hoylman.

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

18 COMMISSIONER REARDON: Hi, good to see
19 you.

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

1 COMMISSIONER REARDON: Yes (laughing).

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

6 She is an artist, a pretty successful
7 one, and -- but obviously has not been able
8 to sell her art during the pandemic. She's
9 an adjunct professor at the Art Students
10 League, like a lot of artists are. That's,
11 you know, a part-time job which she didn't
12 lose. But when she applied for CARES
13 assistance, they went off of her W-2 form for
14 her adjunct professorship rather than her
15 1099 on her art sales.

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

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

22 SENATOR HOYLMAN: Yes.

23 COMMISSIONER REARDON: And there
24 are --

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

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

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

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

24 But it is -- you know, PUA never

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

8 SENATOR HOYLMAN: Thank you.

9 CHAIRWOMAN KRUEGER: Thank you.

10 Assembly?

11 CHAIRWOMAN WEINSTEIN: We do not have
12 anybody else.

13 CHAIRWOMAN KRUEGER: All right.

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

18 When you answered the question before
19 about the number of cases of I guess
20 fictitious unemployment applications,
21 fraudulent, you didn't actually mean there's
22 456,000 people who actually individually
23 filed fake cases, do you? I mean, is it more
24 bots and other kinds of software stealing

1 that?

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

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

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

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

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

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

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

10 CHAIRWOMAN KRUEGER: Fair enough.

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

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

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

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

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

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

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

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

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

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

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

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

18 COMMISSIONER REARDON: Sure.

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

1 they just -- they'd spent it.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the employers know it, the hotline is
2 there --

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

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

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

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

19 SENATOR RAMOS: Yeah, no, absolutely.

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

1 It's good to see you, Commissioner.

2 Thank you for all --

3 COMMISSIONER REARDON: Good to see
4 you.

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

7 COMMISSIONER REARDON: Thank you very
8 much.

9 CHAIRWOMAN KRUEGER: Thank you.

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

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

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

23 ASSEMBLYWOMAN JOYNER: Thank you.

24 Okay, it's a very quick question. I

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

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

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

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

24 ASSEMBLYWOMAN JOYNER: Okay, thank

1 you, Commissioner, for your time.

2 CHAIRWOMAN WEINSTEIN: Thank you also,
3 Commissioner.

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

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

11 COMMISSIONER BRABHAM: Good evening.

12 CHAIRWOMAN KRUEGER: Good evening.

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

15 How are you, Commissioner?

16 COMMISSIONER BRABHAM: Very well.
17 Very well.

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

24 I appreciate the opportunity to appear

1 before you today to comment on Governor
2 Cuomo's Executive Budget for fiscal year
3 2022, and to highlight some of the agency's
4 key accomplishments over the past year.

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

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

1 responders.

2 In terms of workforce needs,
3 Civil Service has acted quickly to establish
4 critical positions needed to address COVID-19
5 needs. To date, approximately 1800 positions
6 have been established, including more than
7 1300 positions at the Office of Mental Health
8 and Department of Health, and on a daily
9 basis we remain in close contact with our
10 stakeholders, responding to hundreds of
11 inquiries and requests for guidance from the
12 HR community pertaining to personnel
13 recruitment, attendance and leave protocols,
14 and other staffing matters.

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

1 To date, staff have cleared more than
2 800 individuals in support of this effort,
3 including employees from the Department of
4 Health, State Police, National Guard,
5 Department of Environmental Conservation,
6 Office for People with Developmental
7 Disabilities, and others.

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

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

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

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

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

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

24 The department's Office of Diversity

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

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

17 The Department of Civil Service also
18 provides technical assistance and training to
19 95 municipal agencies that are responsible
20 for the civil service administration of
21 approximately 360,000 local government
22 employees. As part of these efforts, the
23 department reviewed more than 2,500 requests
24 from local government representatives over

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

5 On the health benefits front, the
6 department continues to manage one of the
7 most comprehensive public employer health
8 insurance programs in the nation. Early in
9 2020, the department launched a new
10 telehealth program for over 1 million
11 individuals enrolled in the state's
12 Empire Plan to enable virtual medical visits.

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

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

1 all New Yorkers.

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

6 CHAIRWOMAN KRUEGER: Thank you very
7 much, Commissioner.

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

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

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

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

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

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

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

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

18 SENATOR GOUNARDES: Great. Thank you
19 for that.

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

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

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

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

23 SENATOR GOUNARDES: Great. Thank you.

24 The Governor's budget proposes closing

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

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

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

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

4 SENATOR GOUNARDES: Thank you.

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

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

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

24 You know, our role is to send out

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

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

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

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

4 COMMISSIONER BRABHAM: {Inaudible.}

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

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

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

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

1 think that we're in good shape.

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

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

7 SENATOR GOUNARDES: Okay. Great.
8 Thank you.

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

1 I'd love to hear your thoughts on
2 that.

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

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

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

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

4 COMMISSIONER BRABHAM: You're welcome.

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

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

12 SENATOR RAMOS: Yes, Senator Ramos has
13 a question.

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

18 SENATOR RAMOS: Only because it's
19 Shelley.

20 CHAIRWOMAN KRUEGER: Thank you.
21 We need to hear you, Shelley.

22 SENATOR MAYER: Can you hear me now?

23 CHAIRWOMAN KRUEGER: Yes, we can.

24 SENATOR MAYER: Okay. Thank you,

1 Madam Chair. Thank you, Senator Ramos.

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

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

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

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

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

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

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

6 COMMISSIONER BRABHAM: Okay.

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

10 SENATOR RAMOS: Thank you,
11 Senator Krueger.

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

24 COMMISSIONER BRABHAM: So the \$800,000

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

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

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

16 SENATOR RAMOS: Ah.

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

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

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

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

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

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

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

1 and online.

2 SENATOR RAMOS: Thank you for the
3 information, Commissioner.

4 COMMISSIONER BRABHAM: You're welcome.

5 CHAIRWOMAN KRUEGER: Thank you.

6 Assembly, anyone else on your side?

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

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

12 COMMISSIONER BRABHAM: Thank you.
13 Great to see you.

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

18 Good afternoon.

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

21 CHAIRWOMAN KRUEGER: Certainly.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 Thanks.

24 CHAIRWOMAN KRUEGER: Thank you,

1 Commissioner.

2 We've been joined by Senator John Liu.

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

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

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

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

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

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

1 Conservation Police.

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

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

15 GOER DIRECTOR VOLFORTE: Thank you,
16 Senator.

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

1 implements that interest arbitration award.

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

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

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

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

1 I discussed with the previous two panelists?

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

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

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

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

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

7 GOER DIRECTOR VOLFORTE: Certainly.

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

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

19 So agencies that are bringing
20 employees back are already operating under
21 safety plans. But I've got absolutely no
22 concerns that agencies will meet the April
23 1st deadline for the COOP plans currently
24 required by Chapter 168.

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

3 CHAIRWOMAN KRUEGER: Thank you.
4 Assembly.

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

7 ASSEMBLYMAN RA: Thank you,
8 Chairwoman.

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

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

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

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

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

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

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

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

1 ASSEMBLYMAN RA: Okay. Thank you.

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

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

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

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

22 Chair, I -- that's it.

23 CHAIRWOMAN KRUEGER: Thank you.

24 Are there any other legislators who

1 would like to ask questions?

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

5 ASSEMBLYWOMAN GIGLIO: Thank you.

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

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

14 CHAIRWOMAN KRUEGER: Thank you very
15 much, Assemblywoman.

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

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

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

23 GOER DIRECTOR VOLFORTE: Be safe, all.

24 CHAIRWOMAN KRUEGER: So our next

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

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

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

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

24 And for District 37, Henry Garrido,

1 executive director.

2 Good afternoon, slash, evening, Fran.

3 You go first.

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

6 CHAIRWOMAN KRUEGER: Nice to see you.

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

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

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

1 rest are in the forensic units.

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

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

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

1 state pulling back on their obligation.

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

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

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

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

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

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

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

13 (Pause.)

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

16 Next, from PEF.

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

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

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

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

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

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

1 centers that provide unique and specialized
2 services?

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

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

24 We continue, despite us banging this

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

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

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

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

24 Thank you.

1 (Pause.)

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

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

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

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

18 You know, COVID-19 has left us
19 unprecedented challenges, and nearly 200 DC
20 37 members have lost their lives by providing
21 essential services. And yet we haven't
22 skipped a beat and will continue to deliver
23 services to New Yorkers.

24 So therefore, I mean, I only ask that

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

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

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

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

24 I want to speak for health and human

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

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

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

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

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

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

15 Thank you.

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

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

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

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

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

12 MS. TURNER: You're talking to me?

13 SENATOR MAYER: Yes, I am, Fran.

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

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

24 SENATOR MAYER: Yes.

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

5 So it's hard to say. Probably around
6 200 jobs total, but it's hard to say. Some
7 of these facilities do have openings, so some
8 will go smooth. But it's hard to say how
9 many more families will be affected. Right?

10 SENATOR MAYER: Yes. And one of --

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

14 SENATOR MAYER: I understand.

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

18 MS. DiANTONIO: Well, I mean, we know
19 that we know that we would lose around
20 800 FTEs total. But it's not by unit, it's
21 total.

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

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

10 SENATOR MAYER: Right, I understand.

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

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

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

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

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

7 CHAIRWOMAN KRUEGER: Thank you.
8 Assembly?

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

11 ASSEMBLYMAN RA: Thank you.

12 To start, I just want to thank all
13 three of you and all of your members. You're
14 100 percent right, these are the essential
15 workers who have kept our state moving and
16 provided essential services. And certainly
17 our condolences to all of your members on
18 colleagues that were unfortunately lost to
19 this virus.

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

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

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

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

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

19 And I would only add that, you know,
20 this hiring freeze has resulted in
21 6,000 vacancies across the state. That's a
22 lot in a year we haven't been able to
23 replace. So we haven't had the movement -- I
24 don't know if -- Randi, if the PEF workers

1 have had movement.

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

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

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

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

3 ASSEMBLYMAN RA: Great. Thank you.

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

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

9 SENATOR GOUNARDES: Great. Thank you.

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

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

1 speed to bring your workers back?

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

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

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

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

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

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

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

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

22 SENATOR GOUNARDES: Thank you.

23 Randi?

24 MS. DiANTONIO: Yeah, so I would like

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

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

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

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

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

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

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

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

4 MS. DiANTONIO: Great.

5 MR. GARRIDO: Let me just say that of
6 150,000 members we represent, 100,000 were
7 already deemed essential, so they're working
8 every single day in the city agencies.

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

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

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

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

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

1 be vaccinated; there's no vaccine available
2 for them -- even though they're classified as
3 1b or 1a, first responders -- because the
4 city ran out of it. I don't understand what
5 the rush is --

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

10 Helene?

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

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

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

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

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

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

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

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

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

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

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

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

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

24 I guess my -- the question I have for

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

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

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

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

24 So thank you for raising that up,

1 Assemblywoman.

2 CHAIRWOMAN WEINSTEIN: Thank you,
3 Henry.

4 Now I'm going to go to the Senate.

5 CHAIRWOMAN KRUEGER: Thank you.

6 Senator Diane Savino.

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

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

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

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

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

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

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

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

13 SENATOR SAVINO: Thank you --

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

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

24 SENATOR SAVINO: So what I would just

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

8 Would you say that that's fair?

9 MS. TURNER: Are you talking to me?

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

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

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

19 SENATOR SAVINO: Thank you, Henry.
20 Thank you.

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

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

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

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

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

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

23 ASSEMBLYWOMAN GRIFFIN: Yes.

24 MS. TURNER: And therein lies the

1 problem. If you can't give it to all of them
2 and give them an opportunity -- and
3 especially the ones that have been working
4 24/7 in the direct care facilities, putting
5 their families and their lives on the line.

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

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

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

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

1 then repurpose hiring to some of the newly
2 created positions.

3 ASSEMBLYWOMAN GRIFFIN: Makes sense.

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

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

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

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

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

6 Our next questioner is Senator John
7 Liu.

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

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

14 MS. TURNER: Long time.

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

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

1 work that you do.

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

12 (Zoom interruption.)

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

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

19 (Moment of silence.)

20 SENATOR LIU: Thank you.

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

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

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

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

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

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

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

15 Thank you, Madam Chair.

16 CHAIRWOMAN KRUEGER: Thank you,
17 John Liu.

18 Assembly, do you have anyone left?

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

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

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

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

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

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

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

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

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

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

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

16 CHAIRWOMAN KRUEGER: Helene, is that
17 okay with you?

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

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

22 CHAIRWOMAN WEINSTEIN: Can we go to
23 the Assemblywoman?

24 ASSEMBLYWOMAN GIGLIO: Yup, I'm trying

1 to start my video.

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

14 So I just want to thank you.

15 MS. TURNER: Thank you.

16 MS. DiANTONIO: Thank you.

17 MR. GARRIDO: Thank you.

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

24 Good evening.

1 MR. FARRELL: Good evening.

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

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

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

9 MS. ZARON: Okay, got it.

10 CHAIRWOMAN KRUEGER: Okay, are you
11 ready?

12 MS. ZARON: I am ready, thank you.

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

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

1 We're here also -- that's the good --
2 that's the good stuff. We're here also to
3 oppose the Governor's proposals related to
4 the state retirees health insurance so-called
5 reforms. Specifically, elimination of the
6 Medicare Part B IRMAA reimbursement,
7 imposition of a cap on state reimbursement of
8 Medicare Part B standard premium this year at
9 148.50, and implementation of a differential
10 healthcare premium contribution to new
11 civilian hires at retirement.

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

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

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

3 So we think this is unfair. We think
4 these payments need to be paid. And there
5 should be full restoration of the deferred
6 2020 performance advances and longevities.
7 Future salary increases -- because we need to
8 look to the future -- should be equal to
9 union-represented, with optional longevity
10 payments for M/Cs above Grade 17, and leave
11 accruals should be at the same level as other
12 employees.

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

24 And I did it in three minutes.

1 CHAIRWOMAN KRUEGER: Very nice. Thank
2 you.

3 MS. ZARON: Thank you.

4 CHAIRWOMAN KRUEGER: And Ed?

5 MR. FARRELL: Yes.

6 CHAIRWOMAN KRUEGER: Hi.

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

9 CHAIRWOMAN KRUEGER: Thank you.

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

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

24 I'll just quickly talk about this,

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

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

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

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

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

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

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

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

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

24 We strongly support Barbara and other

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

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

14 So I thank you.

15 CHAIRWOMAN KRUEGER: Thank you.

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

18 All right. Helene, any
19 Assemblymembers?

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

24 (Laughter.)

1 MS. ZARON: That's very funny.

2 CHAIRWOMAN KRUEGER: Thank you.

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

6 SENATOR SAVINO: It's true.

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

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

13 (Laughter.)

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

17 MS. ZARON: Thank you.

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

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

23 MS. ZARON: We're thinking of you.

24 CHAIRWOMAN KRUEGER: Thank you.

1 MR. FARRELL: Thank you.

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

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

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

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

1 convening this important hearing allowing me
2 to testify.

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

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

19 COVID has not only taken far too many
20 New Yorkers from us, but it has also wreaked
21 havoc on our economy. New York State faces a
22 \$60 billion deficit. We understand the need
23 to manage this deficit but reject any effort
24 that would see the budget balanced on the

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

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

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

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

1 lack documentation to apply for small
2 business relief.

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

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

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

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

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

4 Meanwhile, many wealthy New Yorkers
5 continued to flourish. New York State's
6 120 billionaires saw their combined wealth
7 rise by over \$77 billion in the first months
8 of the pandemic. We must demand that those
9 who have profited the most during this crisis
10 pay their fair share to support the recovery
11 of the state.

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

21 Thank you.

22 CHAIRWOMAN KRUEGER: Thank you.

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

1 DR. PARROTT: Good evening --

2 CHAIRWOMAN KRUEGER: Good evening.

3 DR. PARROTT: -- distinguished

4 Senators and members of the Assembly. James
5 Parrott is my name. I'm the director of
6 economic and fiscal policies at the Center
7 for New York City Affairs at The New School.
8 Thanks for the opportunity to testify on
9 workforce issues.

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

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

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

3 Partial weeks of unemployment benefits
4 soared to an historical high of 25 weeks --
5 25 percent of all weeks compensated during
6 the last three months of 2020. That's up
7 from 9 percent the year before.

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

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

24 The Governor's proposed permanent fix

1 provides for a cleaner application of the
2 credit, but it is not as beneficial to
3 workers as a bill passed by the Senate and
4 the Assembly with overwhelming support in the
5 last two weeks. The bill, sponsored by
6 Assemblymember Stirpe and Senator Ramos,
7 would institute a partial benefit credit
8 equal to 50 percent of a worker's weekly UI
9 benefit. The Governor's bill only applies a
10 40 percent partial credit. The difference
11 between 40 and 50 percent means \$143 each
12 month to a part-time worker.

13 There's another difference between the
14 Legislature's bill and the Governor's bill.
15 The Legislature's bill would take effect in
16 30 days. The Governor's bill would take
17 effect after a year. The difference that
18 that makes when you add it up across the
19 600,000 unemployed workers is \$2.8 billion.
20 Eighty percent of this would come from the
21 federal government.

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

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

4 Thank you.

5 CHAIRWOMAN KRUEGER: Thank you. Thank
6 you, James.

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

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

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

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

24 It protects an employee who complains

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

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

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

24 The law essentially lay dormant for

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

12 So the Legislature has taken some
13 steps to ameliorate the situation with regard
14 to healthcare workers, with regard to public
15 employees. But in general, for thousands and
16 thousands of New York workers, the decision
17 to stand up and report something that they
18 reasonably believed to be dangerous or
19 unlawful means that they are likely to lose
20 their job.

21 Many other states, such as New Jersey,
22 have robust protection for those who speak
23 out, but not New York.

24 There are two excellent bills that

1 would alleviate this situation, one in the
2 Senate, sponsored by Senator Ramos, that has
3 passed the Senate. There are excellent bills
4 in the Assembly, one which is sponsored by
5 Assemblymember Weinstein. And we look
6 forward to working with the Legislature and
7 the Governor to pass legislation that will
8 save not only the jobs but the lives of
9 thousands of New Yorkers.

10 Thank you.

11 CHAIRWOMAN KRUEGER: Thank you.

12 And last on this panel, Martha Ponge,
13 director of apprenticeship, Manufacturers
14 Association of Central New York.

15 MS. PONGE: Thank you. Good evening,
16 Senator Krueger and Assemblymember Weinstein
17 and the committee members. Thank you for the
18 opportunity to speak here tonight.

19 My name is Martha Ponge, and I
20 represent the Manufacturers Alliance of
21 New York State, which is comprised of seven
22 manufacturing associations serving each of
23 the state's Economic Development Regions.
24 Our work through the Manufacturers

1 Intermediary Apprenticeship Program, known as
2 MIAP, supports equitable access to registered
3 apprenticeship for all individuals regardless
4 of their work experience or their academic
5 qualifications.

6 In order to continue this highly
7 successful and effective program and to meet
8 the growing needs of employers across our
9 state, we respectfully request the
10 restoration of the legislative line item for
11 MIAP for \$750,000 in this year's budget.

12 COVID has exposed the fragility of
13 careers in industry sectors such as
14 hospitality and food service. Conversely,
15 manufacturing and high-tech fields are still
16 providing rapidly growing employment
17 opportunities. Today nearly 51 percent of
18 New York State residents earn less than
19 \$40,000 per year. And as we emerge from
20 COVID, access to springboard careers with an
21 average salary of \$71,000 a year is more
22 important than ever.

23 The employment disruption that was
24 caused by the pandemic has provided an

1 immediate opportunity for manufacturers to
2 recruit unemployed and underemployed
3 individuals, and MIAP will help those
4 employers facilitate the recruitment, the
5 up-skilling, and the retention of these new
6 workers.

7 Statewide, MIAP currently supports
8 over 200 companies and 25 different trades.
9 And despite the adverse effects of COVID,
10 this year alone we expect to add over
11 150 apprentices and award journey worker
12 certifications to over 40 apprentices.

13 During the pandemic, employers
14 supported by MIAP maintained over 98 percent
15 of all active apprentices, while increasing
16 career apprenticeship activity by over 80
17 percent. MIAP successfully transitioned to
18 100 percent digital support, allowing
19 employers to maintain access to on-the-job
20 learning and related instruction services.

21 In 2021, the Alliance will develop
22 pilot programs with a laser focus on youth
23 and adults from minority and low- and
24 moderate-income communities, creating

1 apprenticeship pathways directly from high
2 school and rapidly up-skilling individuals
3 displaced as a result of COVID. Already this
4 year our Rochester partner has matched 65
5 youths with 32 companies, an increase in
6 company participation with youth by over 500
7 percent from last year.

8 Our work over the past year has grown
9 to support other industry sector
10 associations, such as Big I NY and the
11 Semiconductor Association, in their efforts
12 to establish themselves as sponsors of
13 registered apprenticeship. Our work with
14 these member associations is anticipated to
15 bring 3400 additional small and medium-sized
16 businesses to the table in the next 12 to 18
17 months.

18 Again, I'm here to respectfully
19 request the restoration of the legislative
20 line item for MIAP of \$750,000 so that we may
21 continue this very critical work. And I
22 thank you very, very much for your
23 consideration.

24 CHAIRWOMAN KRUEGER: Thank you very

1 much, all of you. I don't see any hands up,
2 so I have a question. And we'll see if
3 anyone else decides they want to jump in.

4 So James Parrott, you talked about the
5 way that the way the Governor's budget writes
6 in the starting up of the part-time
7 unemployment, we're going to miss out on a
8 huge amount of federal money. Why would we
9 want to do that?

10 DR. PARROTT: Well, I don't think that
11 we would want to do that. It would bring --
12 you know, as the Governor has very forcefully
13 made the case, New York State needs to
14 receive more federal funds. So by having,
15 you know, a 50 percent disregard as opposed
16 to a 40 percent disregard in the Governor's
17 approach means \$140 a month to an unemployed
18 worker, you know, times 600,000 unemployed
19 workers who are working part-time at this
20 point.

21 You know, all of the -- again, the
22 numbers are so astounding that a lot of
23 people -- it hasn't registered with a lot of
24 people: 2.4 million New Yorkers received

1 unemployment benefits in early January. The
2 number is not that much different today, if
3 we have the more recent data.

4 Twenty-five percent of people are only
5 able to go back to work part-time. They're
6 still receiving some unemployment benefit,
7 but only part-time. So any improvement that
8 the state can make -- the sooner the better,
9 obviously -- makes a huge difference to the
10 workers.

11 I didn't have an opportunity to point
12 out that two-thirds of the unemployed
13 New York workers are persons of color. They
14 tend to be low-income workers who are working
15 in industries that are the most heavily
16 affected by this. That will -- you know,
17 that additional money, particularly the
18 federal part, will help spur New York's
19 economy and will help us recover sooner
20 rather than later.

21 CHAIRWOMAN KRUEGER: Thank you. And
22 whoever gave me 10 minutes, we're all taking
23 three minutes. So thank you.

24 So my time is up, but I see I have

1 encouraged an Assemblywoman to raise her
2 hand.

3 CHAIRWOMAN WEINSTEIN: Yes, so we'll
4 go to Jo Anne Simon.

5 ASSEMBLYWOMAN SIMON: Sorry, that
6 little --

7 CHAIRWOMAN KRUEGER: For everyone,
8 it's just doing that tonight.

9 ASSEMBLYWOMAN SIMON: It is.

10 So thank you, Mr. Parrott, you have
11 just answered the question I had for you. I
12 appreciate your testimony very much.

13 I have a question for Ms. Clark. You
14 testified about whistleblower protection,
15 which is something I've been very concerned
16 about. And I'm wondering if you have a way
17 of sort of quantifying, for example, how that
18 could end up costing New York money. So
19 whether it's unemployment, whether it is
20 people not working and needing to use other
21 benefits.

22 And also do you have an opinion as to,
23 you know, the limitations that we have on
24 unemployment -- one is part-time

1 unemployment. But are there people who
2 should be protected by unemployment as well?

3 MS. CLARK: Those are great questions,
4 Assemblymember Simon.

5 Taking the second one first, I mean,
6 certainly everyone should be protected by
7 unemployment. I know that undocumented
8 workers, gig workers are especially hard-hit
9 by the pandemic and should absolutely be
10 protected.

11 In terms of quantifying how many
12 people are affected by the whistleblower
13 law -- the lack of a whistleblower law,
14 there's no real way to do it, except that I
15 think I heard earlier from the Department of
16 Labor that 43,000 people complained of unsafe
17 working conditions.

18 So every single one of those 43,000
19 people, unless they're public employees or
20 unless they're healthcare workers, are
21 subject to being terminated by their
22 employers because they complained. And those
23 people, when they get terminated, of course
24 they apply for unemployment. They should be

1 eligible for unemployment.

2 And they're obviously either -- at
3 this point, leaving the workforce, it's very
4 difficult for them to return, so of course
5 it's an enormous drain on the UI system as
6 well.

7 ASSEMBLYWOMAN SIMON: Thank you.

8 CHAIRWOMAN KRUEGER: Okay. I believe
9 we have now completed this panel. Thank you
10 very much for being with us tonight. And
11 again, we read everyone's testimony and we
12 distribute it to everyone.

13 So our next panel is Panel D, the
14 National Day Laborer Organizing Network,
15 Nadia Marin-Molina; the Workers Justice
16 Project, Ligia Guallpa -- I apologize in
17 advance for all the names I get wrong -- and
18 Transnational Villages Network,
19 Marco Castillo.

20 Good evening, everyone.

21 MS. MARIN-MOLINA: Good evening.

22 CHAIRWOMAN KRUEGER: Okay, so first up
23 is Nadia.

24 MS. MARIN-MOLINA: Hi, good afternoon.

1 My name is Nadia Marin-Molina. I'm the
2 co-executive director of the National Day
3 Laborer Organizing Network.

4 Thank you to the chairs for the
5 opportunity to testify today.

6 NDLO is a national network with
7 12 member organizations in New York,
8 specifically in New York City, Westchester
9 and Long Island. Our mission is to improve
10 the lives of day laborers, migrants and
11 low-wage workers by building leadership and
12 power.

13 From my written testimony, which is
14 more detailed, I'll just summarize some of
15 the points and expand on some of the ones you
16 may not know.

17 Our main priority today is to say that
18 it's time for New York to include excluded
19 workers. We want to express the urgent need
20 to create an Excluded Worker Fund within the
21 New York State budget which would deliver
22 income replacement for people who are
23 excluded from unemployment benefits, which is
24 what a lot of the conversation has been

1 around. It includes undocumented and
2 recently incarcerated workers and others in
3 the cash economy.

4 You probably already know that people
5 are suffering due to the pandemic and that
6 many people are left out of COVID relief. An
7 estimated 597,000 undocumented workers, daily
8 laborers, street vendors and domestic workers
9 have no safety net and can't access UI.
10 They've been working and have been devastated
11 in the past year.

12 You may also know that excluding
13 certain groups makes no sense from a public
14 health perspective. Day laborers and other
15 excluded workers provide essential services
16 such as delivery, cleaning and construction.
17 When they're exposed to COVID, they work as
18 well as they can and put their own lives at
19 risk. And as a result, Brown and Black
20 families have been devastated by illness and
21 death.

22 So we need an Excluded Worker Fund in
23 this year's budget, and I'll mention two more
24 points that you may not know.

1 One is that day laborers and other
2 undocumented workers contribute billions of
3 dollars but are not allowed to receive a
4 dollar in return. A quote: Over the past 10
5 years, \$1.4 billion was paid in unemployment
6 insurance taxes in New York based on the work
7 of undocumented immigrants, on top of more
8 than 1 billion in sales and property taxes,
9 on top of what's contributed to the federal
10 system.

11 We're asking that you remedy that
12 injustice during the pandemic and during this
13 budget.

14 The second thing that I'll mention
15 that you may not know is that New York's day
16 laborer centers are an unrecognized New York
17 State workforce development program. They
18 train community members for work, connect
19 them with employers, set minimum wages, and
20 are even second responders after disasters
21 and blizzards, like today. They've
22 distributed thousands of dollars, masks,
23 boxes of food, and training.

24 Our member organizations work very

1 hard and are resourceful, but we can't fill
2 the gap left by a state and federal
3 government that purposely and cruelly
4 excludes undocumented and other workers from
5 pandemic relief. We're asking that you
6 include the Excluded Workers Fund during the
7 budget.

8 The billionaires have grown wealthier
9 during the pandemic, and taxing the wealthy
10 can be used to create this fund and other
11 community needs as well. There's no better
12 time than during the budget. Other states
13 and localities have done something. We're
14 wholeheartedly supporting the creation of an
15 Excluded Workers Fund for New York's workers
16 and for all of our public health.

17 Thank you.

18 CHAIRWOMAN KRUEGER: Thank you very
19 much.

20 Our next guest is the Workers Justice
21 Project.

22 MS. GUALLPA: Thank you. Thank you so
23 much for the opportunity for speaking today.

24 My name is Ligia Guallpa. I am the

1 executive director of the Workers Justice
2 Project, one of the few workers centers that
3 stayed open during the pandemic to provide
4 emergency relief services to more than 18,000
5 day laborers, domestic workers, delivery
6 workers who were left out to die without
7 economic relief, without unemployment
8 insurance, without medical insurance, without
9 paid sick time leave, without workers'
10 compensation, and without essential workers'
11 rights.

12 While hundreds of workers were laid
13 off, workers in industries like construction,
14 cleaning, restaurants and delivery workers
15 continued to increasingly work in dangerous
16 and deadly working conditions. In New York
17 there is a growing number of working people,
18 especially low-wage and Black and immigrant
19 communities, who were forced to take jobs --
20 gig jobs, specifically -- with no essential
21 rights. Just this month, actually, the city
22 reported that the number of gig workers has
23 increased by 60 percent.

24 You might ask yourself why more and

1 more New Yorkers are entering the gig
2 economy. The answer is very simple. These
3 are the only jobs available in the market,
4 and the only jobs that New Yorkers can rely
5 on to survive this crisis.

6 However, these jobs do not offer
7 prosperity nor better working opportunities.
8 These jobs are turning into one of the most
9 deadliest, unpaid and most dangerous jobs in
10 our state and in our city.

11 Let's just look at some of the
12 fastest-growing industries where mostly
13 immigrant, undocumented and indigenous
14 communities have been working as essential
15 workers throughout the pandemic.

16 The most recent, more than 80,000
17 app-based food delivery workers are hired as
18 gig workers by giant companies like DoorDash,
19 Grubhub, Uber and many others. While these
20 companies are making billions in pandemic
21 profits, they are denying the most essential
22 worker protections, such as the right to be
23 paid sick-time leave, minimum wage, the right
24 to have a safe workplace and access to

1 bathrooms.

2 In addition to being denied basic
3 worker protections, the NYPD have failed to
4 respond to multiple reports of violent e-bike
5 robberies and traffic crimes. Only this
6 month, more than three delivery workers have
7 been killed, and every day they're violently
8 attacked. New York has failed to protect
9 them. Our state has allowed these companies
10 to abuse and exploit these workers at any
11 cost.

12 Domestic workers. There's 200,000
13 domestic workers in New York, mostly
14 immigrant and undocumented, who were left out
15 to clean and disinfect New Yorkers' homes
16 without safety equipment, without essential
17 rights. There are more than 72,000 immigrant
18 construction workers working as day laborers,
19 mostly -- some of them, the majority, working
20 as day laborers, who were also left out to do
21 this job without any safety protections.
22 During COVID many were fired for getting
23 infected by COVID, and thousands of wages are
24 being and continue to be stolen by wealthy

1 developers and contractors who are building
2 our state and our city.

3 These are some of the industries that
4 our state has failed to invest and protect.
5 We're here to demand that included excluded
6 workers are provided economic relief and
7 essential protections. Day laborers,
8 domestic workers, delivery workers must be
9 part of your budget priorities during this --

10 THE MODERATOR: Excuse me, your time
11 is running out.

12 MS. GUALLPA: -- year's budget
13 process. Thank you.

14 CHAIRWOMAN KRUEGER: Thank you. Thank
15 you very much.

16 Next, Marco Castillo, Transnational
17 Villages Network.

18 MR. CASTILLO: Thank you very much.
19 Good evening. My name is Marco Castillo.
20 Thank you for the opportunity to testify at
21 today's Workforce hearing.

22 I am the founder of {in Spanish}, the
23 Transnational Villages Network, which is a
24 nonprofit organization and a network of local

1 groups and committees formed and by led by
2 indigenous immigrants living in the tri-state
3 area, but mostly in New York.

4 I'm also here as a member of the Fund
5 Excluded Workers Coalition.

6 I am here to testify today in support
7 of the Excluded Workers Bailout Fund, which
8 would deliver desperately needed income
9 replacement assistance for New Yorkers that
10 have been ineligible for unemployment
11 benefits. This includes New Yorkers that are
12 undocumented and recently incarcerated and
13 indigenous immigrants, as well as those who
14 operate within the cash economy and families
15 that have lost their primary breadwinners due
16 to the pandemic.

17 Senator Jessica Ramos has introduced a
18 bill to create this fund, and Assemblymember
19 Carmen De La Rosa will introduce an
20 equivalent bill in the Assembly.

21 I particularly want to say, according
22 to the Pew Hispanic Center, Mexicans
23 represent 14 percent of the Hispanic
24 population in New York State, which

1 approximately would be half a million. From
2 which, according to my organization, we
3 believe that more than 60 percent -- which
4 would be approximately 300,000 people --
5 would come from indigenous communities.

6 These indigenous immigrants have been
7 historically invisible for the federal
8 government, for the State of New York and for
9 the City of New York in so many policies.
10 Many of our members don't speak Spanish as
11 their first language. They struggle to
12 understand -- they struggle during the
13 pandemic to understand any communication that
14 came from the state. They were afraid of
15 reaching out to hospitals. And they continue
16 to work as frontline workers, delivering
17 food, serving people with groceries, cleaning
18 services. And in return, they have received
19 absolutely nothing.

20 We're talking about families that
21 right now are moving to live with relatives
22 or thinking about going to a shelter or going
23 to the street, after working and exposing
24 themselves and going through coronavirus by

1 themselves, many times at home with no other
2 form of support.

3 This is the case not only of
4 indigenous immigrants from Mexico, but for
5 many other indigenous immigrants from other
6 countries that are in New York City.

7 We think that the Assembly, the Senate
8 and the Governor must deliver long-overdue
9 relief, and our coalition is asking for this
10 \$3.5 billion to create a fund that will
11 deliver flat-rate monthly cash payments to
12 families and include payments for the
13 unemployment crisis and uses flexible
14 application and proof requirements, given the
15 urgency for this crisis.

16 Thank you very much.

17 CHAIRWOMAN KRUEGER: Thank you very
18 much.

19 And do we have any Senators or
20 Assemblymembers who wish to ask questions?

21 All right, I don't see a hand, but I
22 see signaling from Senator Ramos. So I'm
23 going to pass it to her. Senator Ramos,
24 chair of the Senate Labor Committee.

1 SENATOR RAMOS: Yes, thank you so
2 much.

3 And I want to thank the panelists for
4 testifying. Obviously I am not only in full
5 support of supporting our excluded workers
6 with economic relief, I carry the bill, as
7 Marco mentioned.

8 I'm very thankful to you guys for all
9 of the organizing that has been done. I have
10 to say, as a partially indigenous Latina and
11 an Andean woman, I'm really taken aback by
12 all the organizing that has been taking place
13 throughout the pandemic.

14 And I was wondering if each of you or
15 any of you can speak to how the
16 misclassification of workers during this time
17 has impacted the different workforces that
18 make up our communities in Queens, in
19 Brooklyn and beyond. You know, because very
20 oftentimes our day laborers, our
21 deliveristas, our delivery workers, domestic
22 workers, sex workers, right -- all of these
23 folks aren't appropriately classified under
24 the law and can't access unemployment

1 benefits.

2 So can you talk a little bit more
3 about the misclassification of workers?

4 MS. GUALLPA: Yeah, I can share a
5 little bit and then I'm sure other colleagues
6 have -- can speak about it.

7 I think one of the biggest issues that
8 we have seen in New York in -- across
9 New York State and in New York City, where
10 there is large growing industries, has been
11 that as many of the industries have shut
12 down, such as restaurant industries, many
13 workers, mostly immigrant, undocumented
14 indigenous workers, have been fired and
15 forced into looking for new ways of working.

16 And it is not a surprise that many
17 companies and many employers are looking to
18 give workers less hours and treat workers
19 differently without really providing
20 benefits.

21 And what the pandemic has done has
22 been it has created sort of this new economy
23 where mostly the ones that are profiting and
24 taking a big share of it has been big

1 corporations, such as the example of DoorDash
2 and other companies.

3 And what they're doing is more and
4 more is to hire workers more temporarily.
5 And what that does is not only excludes them
6 from accessing unemployment insurance, but
7 also excludes them from basic protections
8 such as having the right to a minimum wage.
9 Some of the deliveristas, or delivery
10 workers, they're --

11 SENATOR RAMOS: And there's so much
12 wage theft. Sorry, Ligia, because we have
13 seven seconds. There's a lot of wage theft
14 going on as well, right?

15 MS. GUALLPA: Wage theft, unsafe
16 working conditions, no minimum wage, no
17 workers' compensation. All these issues have
18 put workers at the edge of literally dying
19 without any protections.

20 SENATOR RAMOS: Well, this is why we
21 had to create the Workplace Fatalities
22 Registry that we passed in both the Senate
23 and the Assembly, because we haven't been
24 counting how many people are dying on the job

1 in New York. It's unconscionable.

2 Well, thank you so much. It was great
3 to see you guys. Thank you for everything
4 you're doing.

5 MS. GUALLPA: Thank you.

6 CHAIRWOMAN KRUEGER: Thank you.

7 Well, unless someone else wants to
8 raise a hand quickly, I'm going to actually
9 announce that we are closing down our second
10 hearing for the day.

11 I want to thank the last panel. As
12 I've thanked every panel, please know that
13 the full testimony you submit will be up
14 online, available to all members of the
15 Legislature and our staffs and the public to
16 review.

17 And you can actually still submit
18 testimony even after these hearings today.
19 So you still have time to submit testimony if
20 you're out there and you've been motivated to
21 wish to submit something.

22 With that, I want to thank everybody
23 who stayed with us off and on all day. Thank
24 you to my chairs and my rankers in both

1 houses. We do not have a budget hearing
2 tomorrow, so don't think you have to get up
3 and tune into us at 9:30 tomorrow morning.
4 We do have another budget hearing on
5 Thursday, and that will be the Higher
6 Education budget hearing.

7 So again, thank you all for your hard
8 work and your participation.

9 If you're outside anywhere, get home
10 very safely. A lot of snow upstate, I hear.
11 Take care.

12 (Whereupon, the budget hearing
13 concluded at 7:17 p.m.)
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