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

JOINT LEGISLATIVE HEARING

In the Matter of the 2019-2020 EXECUTIVE BUDGET ON WORKFORCE DEVELOPMENT

Hearing Room A
Legislative Office Building
Albany, New York
February 4, 2019
3:48 p.m.

PRESIDING:

Senator Liz Krueger
Chair, Senate Finance Committee

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

PRESENT:

Senator James L. Seward
Senate Finance Committee (RM)

Assemblyman William A. Barclay
Assembly Ways & Means Committee (RM)

Senator Jessica Ramos
Chair, Senate Committee on Labor

Assemblyman Marcos A. Crespo
Chair, Assembly Committee on Labor

Senator Andrew Gounardes
Chair, Senate Committee on Civil Service and Pensions
1 2019-2020 Executive Budget
  Workforce Development
2 2-4-19

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

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

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

10 Senator Rich Funke

11 Assemblywoman Diana Richardson

12 Senator Shelley Mayer

13 Assemblyman Harry Bronson

14 Senator Jamaal Bailey

15 Assemblywoman Catalina Cruz

16 Senator Robert E. Antonacci

17 Senator Robert Jackson
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-on behalf of-
Manufacturers Intermediary Apprenticeship Program

Nikki Brate
Member Professional, Scientific and Technical Collective
Bargaining Unit

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CHAIRWOMAN KRUEGER: Pursuant to the State Constitution and Legislative Law, the fiscal committees of the State Legislature are authorized to hold hearings on the Executive Budget. Today's hearing, the seventh of 13 -- it's like halfway through, Helene.

CHAIRWOMAN WEINSTEIN: This is it.

CHAIRWOMAN KRUEGER: This is it.

-- will be limited to a discussion of the Governor's proposed budget for the Department of Labor, Department of Civil Service, and the Governor's Office of Employee Relations.

Following each presentation, there will be some time allotted for questions from the chairs of the fiscal committees and the other relevant committees.

Representing each of these agencies, I would like to welcome Roberta Reardon, commissioner of Department of Labor; Lola Brabham, acting commissioner, Department of Civil Service; and Michael Volforte, director of Governor's Office of Employee Relations.
The commissioners' testimonies will be followed by a question-and-answer period from the Legislature. After the final question-and-answer period, an opportunity will be provided to members of the public to briefly express their views on the budget under discussion today.

And introducing the Senators that I see before me, Senator Seward; Senator Funke; and our new chair of Civil Service --

SENATOR GOUNARDES: -- and Pensions, yup.

CHAIRWOMAN KRUEGER: -- and Pensions, thank you.

And my Assembly colleagues?

CHAIRWOMAN WEINSTEIN: So from the Assembly we have Peter Abbate, chair of our Governmental Employees Committee; Assemblyman Crespo, chair of our Labor Committee; Assemblywoman Diana Richardson; and Assemblyman Harry Bronson, former counsel to the Assembly Labor Committee.

So Liz?
CHAIRWOMAN KRUEGER: So Senator --

Senator Reardon? I'm losing my mind, I apologize. Commissioner, would you like to be demoted to Senator?

(Laughter.)

COMMISSIONER REARDON: No.

(Laughter.)

CHAIRWOMAN KRUEGER: The Commissioner of Labor, thank you.

COMMISSIONER REARDON: Thank you very much. Thank you for that excellent introduction. My husband will be very surprised.

(Laughter.)

CHAIRWOMAN KRUEGER: Mine would be delighted if you traded with me, but --

COMMISSIONER REARDON: We'll have discussions afterwards.

CHAIRWOMAN KRUEGER: Mine would be delighted if you traded with me, but --

COMMISSIONER REARDON: We'll have discussions afterwards.

CHAIRWOMAN KRUEGER: Okay, fine.

COMMISSIONER REARDON: Negotiations.

So Chairs Krueger and Weinstein and distinguished members of the committees, thank you for the opportunity to discuss Governor Andrew Cuomo's proposed 2020 budget
and highlight the work of the Department of
Labor.

I have never been more proud to be
serving the people of New York State by
leading the DOL. As I travel regularly
across the state, it's clear that landscape
is changing ever-quicker. But the foundation
we have worked so hard to build and maintain
is solid.

Under Governor Cuomo, we are committed
like never before to coming together around
the fundamental principles -- lifting up
workers, supporting businesses, and
protecting the public. Building on a
tremendous record of accomplishments, in this
new term we have a renewed vision, renewed
focus, and a renewed promise to serve all
New Yorkers. I want you to leave today with
an better sense of who we are, how we serve,
how we can work together and how we are your
DOL.

First, by supporting workers.

December 31, 2018, marked a historic day in
New York State as our minimum wage increased
again in another step towards a $15 minimum wage statewide. For the first time, thousands of workers in New York City now must make at least $15 an hour. This is a vital part of Governor Cuomo's vision to bring economic justice and fairness to working families.

And the phase-in is working. Businesses are adjusting, not shutting their doors. Last year growth and average hourly earnings outpaced similar earnings nationally and the U.S. inflation rate. And you played a major role in making this a reality.

We stand by our workers, especially hardworking immigrants, the lowest-paid and the most vulnerable, making sure that if someone's hard-earned wages are stolen, we recover every penny earned. Last year the Department of Labor investigators recovered more than $35 million and returned it to more than 35,000 workers victimized by wage theft. Since the Governor took office, this agency has recovered and returned more than $285 million to more than a quarter of a million
Still, a few bad employers knowingly steal tens of millions of dollars from workers each year. The Governor is proposing a new tool to help eradicate this practice by deterring it in the first place. We want to increase the criminal penalties for bad actors and empower prosecutors to take swift action by making these intentional thefts a felony. This will be a game-changer in eradicating wage theft, a goal that all of us share.

The New York Youth Jobs program incentivizes the hiring of at-risk youth with tax credits for businesses. Since 2012, the youth unemployment rate has been nearly cut in half, due in part to this program. Over the past six years we have connected 130,000 young people to stable jobs with 2500 employers. Last year you helped increase the maximum tax credit by 50 percent, and I'm proud to tell you we had a record year. And we look forward to more growth in 2019.
We continue to be laser-focused on helping job seekers in poverty-stricken communities. Unemployment Strikeforce teams work with local businesses to identify openings, match likely candidates with those positions, and leverage relationships with local training partners to fill worker skill gaps. Since we launched this program in 2014, we have engaged more than 162,000 individuals, with more than 76 percent of them finding work.

This year, at the Governor's direction, we will bring this successful model to new locations, including Syracuse, Elmira, and Binghamton. And we'll be working to align Strikeforce teams with ESPRI communities and the strategic efforts to reduce poverty already underway.

We continue to be a key player in the Governor's Women's Agenda. Last year we released our gender wage-gap report, which I cochaired with Lieutenant Governor Kathy Hochul, outlining dozens of strategic recommendations to help close it. Hours of
hearings and research highlighted where we can do more. That's why we're continuing our push for a salary history ban. Because if a woman makes less than a man to begin with, or if she took time off to raise a child, she shouldn't be penalized for that for the rest of her career.

We're also working to make sure that employers are training their workers about sexual harassment in the workplace. Last year we worked with stakeholders across the spectrum to create model policy and training materials to make it turnkey and cost-effective for employers and meaningful for employees, who are all required to be trained under the law.

We continue to support workers and businesses through registered apprenticeship programs, a time-honored model that combines on-the-job training with classroom instruction. Last year we launched the Empire State Apprenticeship Tax Credit Program to expand the apprenticeship model to in-demand occupations throughout the state.
This year we're setting the bar higher, committing to double the number of apprenticeships in high-demand fields by 2025, industries like high-tech, healthcare, clean energy, and advanced manufacturing.

We're also committing to double the number of women in all apprenticeships by 2025, and we're going to expand our marketing efforts to target parents and guidance counselors, showing the power of apprenticeship as a proven alternative to great jobs without racking up college debt.

We continue to modernize our 96 New York State Career Centers, upping our digital offerings so we're meeting younger generations at their level. Over the past year, our Career Center system served nearly 500,000 people.

We're also excited to be part of the rollout of the Governor's $175 million commitment to workforce training programs, and we expect announcements on this soon.

Our strong economy is allowing renewed focus on those who are unemployed. Today the
trust fund that pays for Unemployment Insurance benefits is stronger than ever, ending last year at $2.4 billion, a stark difference from a system on the brink of insolvency during the last recession.

2013’s reform package has helped future-proof this crucial benefit system, raising benefits for workers by lowering costs for employers. But today our unemployment system still discourages claimants from working part-time, unlike every other state in the union. This year we should revise this system to change how part-time work factors in, measuring part-time work by a dollar amount and not by the whole day. This will encourage more unemployed workers to hone their skills and connect back to full-time work.

We’re not just the DOL for workers. Like never before, we are helping businesses, connecting them to hiring incentives, helping them find workers, and making sure they understand their rights and responsibilities under the law. We have regional business
teams that spread across the state, ready to help businesses large and small. In 2018, my department hosted or participated in 900 job fairs and recruitment events, serving 8800 businesses and 65,000 job seekers.

Every day we're helping more businesses add their job listings to the Governor's Jobs Express website. And we custom-tailor our services to each business.

If you have businesses in your district that need assistance, let us help. I mean it. Call me, and we will make the connection and get to work on their behalf.

I want to end along the lines where I began. Today I've shared with you successes of the recent past and our goals for the future. But what I think underscores this entire conversation is that we have been able to make all this progress while growing jobs like never before. Since Governor Cuomo took office, New York State has added more than 1.1 million private-sector jobs, bringing the total to more than 8.2 million. And that's an all-time high.
The state's unemployment rate is 3.9 percent, which is the lowest rate in history. Every region has seen a dramatic drop in its unemployment rate, and the number of unemployed New Yorkers has fallen to its lowest level in more than 30 years.

At a time when our nation is at a crossroads, New York State is a beacon for hope and determination. Under this Governor and our progressive legislature, we have both a tremendous opportunity and an enormous duty. It is our collective mission to improve the lives of all New Yorkers.

Whether you're a single dad working minimum wage, the leader of a major company, a student in middle school who's not sure what she wants to do for a career, or someone working at a community-based organization living out their dream, this is your time. Your state loves you. And we are your DOL.

CHAIRWOMAN KRUGER: Thank you.

Senator Seward.

SENATOR SEWARD: Thank you, Madam Chair. And thank you, Commissioner, for
I had a question regarding the workforce development funding that was $175 million that was in last year’s budget.

Do you expect that to be continued this year?

COMMISSIONER REARDON: Yes, the office -- we’re expecting more announcements on the office coming forward. That is not just a Department of Labor focus. We are a part of it, because a lot of what we do is workforce development. But there are other workforce development programs around in other agencies. So that office will be coordinating.

And my understanding is that they're going to help make sure that the REDCs have their priorities and that they will align those priorities with the workforce development in each area.

SENATOR SEWARD: Do you have a contact at DOL that I can refer -- there’s a lot of local interest in my area in workforce development. There’s a huge need.

COMMISSIONER REARDON: My deputy
commissioner for workforce development is Karen Coleman, she's sitting behind me, with red hair.

(Laughter.)

SENATOR SEWARD: Okay.

COMMISSIONER REARDON: And she would be happy to field those calls. We're always happy to talk to businesses and workers who are looking for jobs.

SENATOR SEWARD: Very good. We'll follow up with that.

I just wanted to -- this may be a bit off-topic in terms of budget, but I know that DOL went around the state on these tipped wage hearings and so on. Where are we on that? Is that sort of on hold? I would hope it would be. I'm not pushing it. Because every worker that I hear from that is in a tipped wage situation, they don't want any further changes because they feel it would be to their detriment rather than to their benefit.

COMMISSIONER REARDON: So I'm glad you asked that question. We had 40 hours of
testimony, we held seven public hearings.

I'm very proud to say that I sat for 40 hours listening to everyone, because I thought that was my responsibility. And we heard from all around the table, we heard from everyone who works for tips as well as the people who employ them.

It was an incredibly robust discussion -- and active, I might add. We have over 3,000 written comments. We're looking at academic studies and data from others states. So there's an enormous amount of plain information for us to work through.

We are doing our due diligence and we will be releasing our recommendations, but we're not trying to do it quickly, we're trying to do it well.

SENATOR SEWARD: Take your time, from my perspective.

(Laughter.)

SENATOR SEWARD: I wanted to ask you -- I know this also involves other agencies in addition to DOL. But with the minimum wage increases, upstate, of course,
we're still in the yearly increases. As part of the legislation that enacted the minimum wage increase, there was to be some studies done, I think they start in 2019, in terms of assessing the impact on our state's economy, and particularly upstate, where we're more fragile, let's face it.

Now, have you heard anything about commencing such studies in 2019? Or where do you see that going?

COMMISSIONER REARDON: Well, let me just note that we're one month into 2019, so yes, I'm sure we are always collecting workforce data, so I'm sure that collection is going on as we speak.

The Department of Budget will be overseeing it, and then we'll be working with them. So that is just beginning.

I want to congratulate all of you, honestly, on the thoughtful way that you approached the minimum wage. As I've traveled around the state and talked to businesses large and small, and to workers, it's very clear that the tiered approach was
a very thoughtful approach for many, many, many parts of the state. And you put a lot of effort into that, and I think it's paying off. The workers, of course, are very happy to have a raise. It's very hard to live on $18,000 a year, which is what the previous minimum wage was. But we want to make sure that businesses have the time to absorb it. And I think that's working.

SENATOR SEWARD: Thank you for your answer. We'll look forward to the -- there's more months in 2019, and getting to that. My final issue and question revolves around the wage theft that you mentioned. Do you have any numbers in terms of the number of incidents of reported wage --

COMMISSIONER REARDON: Discrete incidents?

SENATOR SEWARD: And are they in any particular industry, sector or particular geographic area of the state?

COMMISSIONER REARDON: That is a really good question. My understanding is
that it is not particularly located in one industry or one particular region of the state. I can get you, you know, more details on that.

But the $35 million that we recovered this past year, I must say it's a record for the country. And we take it, of course, very, very seriously. What we would really love to see is the bill in the budget to penalize people who egregiously steal wages, because that would really be a deterrent.

SENATOR SEWARD: Thank you for your answers.

COMMISSIONER REARDON: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: Thank you.

Marcos Crespo, chair of Labor.

ASSEMBLYMAN CRESPO: Thank you.

Good afternoon, Commissioner. It's good to see you.

COMMISSIONER REARDON: Good afternoon.

And congratulations.

ASSEMBLYMAN CRESPO: Before I even ask
my question, I want to thank you for your
partnership over the years. Because I know
much of the work that's been done -- and
Strikeforce, for example, has done a lot in
the Bronx and we're grateful for that, and
the numbers and the trends.
I wanted to ask you a couple of things
in following up on the questions regarding
the workforce development fund. The
appropriation that was made, has any of that
money already gone out the door to programs?
COMMISSIONER REARDON: Not that I know
of. I know the money from the DOL has not.
I don't think any of it's been disbursed yet.
It's going to be an enlarged CFA process.
And we are waiting for the director to be
named, which I think may be coming soon, I
don't know. But that is the purpose of it.
ASSEMBLYMAN CRESPO: And the type of
outreach that's made, how is the outreach
made to programs in underserved communities?
How do organizations know the process they
have to go through, what the money's intended
for, and how they can tap into those funds
and do the work that they need to do? What's the outreach?

COMMISSIONER REARDON: So every year we have the CFAs, and there's a fair amount of, you know, notice that goes out. We certainly have information at all of our Career Centers. When we reach out to businesses and our community partners, we also have that information. The business services reps also carry that information when they go out into the community.

I know that we have sessions before the period starts about how to do the CFA technically, so people understand what's expected of them. Once the application process is in place, I think we have to be a little more hands-off. But certainly if people have questions about it, they can call us before the CFA program opens.

But there is a lot of information out there. And, you know, I can connect you offline with someone in Karen's shop, frankly, again, to have bigger conversations. But we really want to make sure that the
community partners know about it.

I travel a lot around the state, as you know, and I make a point of talking to -- whether it's an industry partner or a community partner or a union, whoever we're talking to, I want to make sure they understand what's available from the Department of Labor to help them. And certainly the CFA is going to be a large part of it.

ASSEMBLYMAN CRESPO: And also we enacted legislation to require a database on the website of workforce development programs. Has that been -- do you know if that's up?

COMMISSIONER REARDON: The catalog. I'm -- I think it is. I know that we've worked on it, and I'm pretty sure it's up. But let me check and see.

ASSEMBLYMAN CRESPO: I don't think our folks found it, so --

COMMISSIONER REARDON: Oh, okay. Well, our website is under redesign, so ...

ASSEMBLYMAN CRESPO: I appreciate the
numbers you gave on the New York Youth Jobs program. The changes that were made last year, the reporting requirements and increased oversight, what are the trends and terms of utilization of the program? Are more businesses signing up year to year? Is there numbers data year to year that we could look at in terms of employers and employees that have taken advantage of the program, and where in the state that's happened?

COMMISSIONER REARDON: Well, certainly the number of youth that are enrolled in the program has increased enormously. I think last year with the increase in the tax credit, I think we got over a 45 percent increase. So there's definitely a higher usage by young people.

The number of employers has stayed relatively stable, around 2500, kind of give or take. We think it would actually be a great tax credit for smaller businesses, because it would have more impact for them. So again, our business services reps, when they go out to the businesses in the
community, that's one thing they talk about.

I just had a meeting last week on Staten Island with someone in a small business, and he was struggling with how do I stay afloat, what's available. And I told him -- he didn't know about the tax credit. So we're going to send business services out to work with him.

And we make sure, to the best of our ability, that we can engage businesses in these conversations, because it's really a great program.

ASSEMBLYMAN CRESPO: Have you ever met with the NSA, the National Supermarket Association, around this program?

COMMISSIONER REARDON: I have not. I know they use it.

ASSEMBLYMAN CRESPO: Well, I've talked to them about. I'll give you an example. So there are a lot of independent stores, supermarkets, in our community; they tend to be the places where a lot of young folks get their first job and first opportunity. And they grow, they go from baggers to cashiers
COMMISSIONER REARDON: Managers.

ASSEMBLYMAN CRESPO: -- you know, managers. I've talked to a lot of them, and they've told me they've found the process very burdensome, the paperwork that's required. And I don't know -- given that that's an actual association with a network, they could work with those businesses. And maybe there's an opportunity to facilitate that so that particularly industries that we know have a large presence in communities like ours, that we can facilitate the process and make sure that they take advantage of this as well. That's one of the reasons why we wanted that data --

COMMISSIONER REARDON: Right.

ASSEMBLYMAN CRESPO: -- who is actually using the credit from the employer side as well as who these youth are and where in the state. I mean, if we could get more data along those lines, it would help us.

COMMISSIONER REARDON: And I'd be happy to sit down with them.
ASSEMBLYMAN CRESPO: Great.

I wanted to ask you about wage theft.

So you gave the numbers, the overall numbers on how much has been recovered. And I think it was asked already, but I want to be clear. Are there specific industries where this has been more prevailing, in types of services or jobs or employees that -- where this has been a more common occurrence?

COMMISSIONER REARDON: Anecdotally, I think probably yes. But I don't want to give you specific examples until I check with the labor standards folks. I can get you that answer.

Certainly there are some industries where wage theft is easier. To be candid, whenever you have an immigrant population, they often are less -- they are more reticent to stand up and say someone's not paying me correctly. So that's one place we would look. But it varies.

ASSEMBLYMAN CRESPO: Do you also track the civil cases that are brought up by the employees who have been victimized by wage
COMMISSIONER REARDON: I believe we do. And we also work with DAs on certain kinds of cases when they reach a certain criminal potential. That's usually on the UI theft side, not the wage theft, but -- of course if you pass the bill and make it a felony to steal wages, we'll be able to work more closely.

(Laughter.)

ASSEMBLYMAN CRESPO: I'm sure. And then -- bear with me here. You know what, let me ask you this. The salary history ban -- as you know, I carried legislation in regards to banning that question in the past. And I saw the proposal, I'm grateful that it's something the Governor wants to champion. But the proposal we had passed in the Legislature would have provided additional protections. It would have allowed an employee to bring a civil action, and it would require DOL to conduct a public awareness outreach campaign so applicants would know exactly what to look
for and what's not appropriate.

But the proposal that I read just
would include the question as a ban for
existing DOL regulations, but it's not as
protective as, let's say, a legislative
approach. Do you have any thoughts on
whether we can do more?

COMMISSIONER REARDON: You know, I
always say to these questions I'm very happy
to enforce the laws that you pass.

ASSEMBLYMAN CRESPO: Sounds good, I'll
take that. Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

Senate?

CHAIRWOMAN KRUEGER: Thank you.

Senate chair of Labor, Senator Ramos.

SENATOR RAMOS: Hi, good afternoon,
everybody.

Commissioner, thank you so much for
your testimony today. I wanted to ask about
Amazon. Considering the impending deal that
was made without community input or any
consideration for us, what's being done to
ensure that the new headquarters actually
hires locally? And considering the
distribution center that's going to be built
in my district, what is being done to ensure
that card-check neutrality is afforded to the
workers, that they have the rights that they
deserve, that they're paid a living wage?
Can you talk to me about that?

COMMISSIONER REARDON: So the Amazon
deal is definitely an ESD question, not a DOL
question. I really haven't had anything to
do with it.
We always want to work with any
employer, particularly a large employer like
Amazon, when they come into New York State,
we want to be as helpful to them as possible.
And we always reach out, send business
services out, find out what kind of workers
they're hiring. You know, if we can find --
the more lead time -- I always tell
employers, the more lead time we have to know
what kind of skill sets you need, the more
time we have to make sure that New Yorkers
are prepared to compete for those jobs.
So, you know, I'm sure that we will be
in there working with them as closely as possible on the hiring.

Card check and neutrality is really not something that the Department of Labor enforces; that's outside of my purview. But as far as people being paid their wages and having all of their legal obligations followed by the employer, we absolutely do all of that. And any employer who comes into New York State had better be prepared to follow all of our laws and regulations.

SENATOR RAMOS: I understand there's a discrepancy when it comes to the payment for home-care workers, and there's pending litigation around them working around the clock but only being able to be paid for 12 or 13 hours, if memory serves me right. From what I understand, that depends on the interpretation of the Department of Labor about the Labor Law. Can you tell me where you are on that?

COMMISSIONER REARDON: So on the home health aides, we proposed regulations to address these issues.
There is currently a case in the Court of Appeals, and so until that case is decided, we are not commenting.

SENATOR RAMOS: Even though it's --

COMMISSIONER REARDON: We are silent until it goes through the Court of Appeals.

SENATOR RAMOS: Okay. I know there was some discussion before I arrived, and I apologize, I was in session, that the Governor -- there was some talk about tipped workers already. So pardon if there's somewhat of a repetition here, but he did announce support for tipped workers in late December 2017. Then a series of hearings, six, were launched on the elimination of the tipped credit last spring. And so obviously it's been around seven months since those hearings closed down, and we still have no decision. Have you made a recommendation to the Governor regarding elimination of the tipped credit?

COMMISSIONER REARDON: We have not finished reviewing all the material. I said earlier we had 40 hours of live testimony
that I attended all of. We have over 3,000 written comments, which were enormous. We are reviewing academic studies that have come out since we held the hearings. And we're looking, frankly, at evidence from other states in the nation. So there's an enormous amount of information.

The other thing about the sub-minimum wage hearings was that it wasn't simply for hospitality, it was also the miscellaneous wage. So it covers a broad range of workers and industries. And as I said earlier, we want to make sure we do it right, which may mean that we don't do it quickly, or as quickly as people would like us to. But we don't want to do it wrong and have to go back.

SENATOR RAMOS: So what would the time frame be?

COMMISSIONER REARDON: We are still in review, and I'm not going to comment on a calendar.

SENATOR RAMOS: Okay. All right.

I wanted to also ask about the
workforce development programs offered to
NYCHA residents and how these programs are
verified and who's ensuring these programs
are being carried out efficiently and
adequately.

COMMISSIONER REARDON: So I'm not
familiar with programs that are specifically
for NYCHA residents, but it might be a city
program rather than a state program. I'd
have to check and see. I know that there are
different -- there are differences between
city and state for some of these things, and
I think NYCHA might be one of them. But I
can find out.

SENATOR RAMOS: All right, thank you.
I'd appreciate that.

COMMISSIONER REARDON: Sure.

SENATOR RAMOS: Thank you, Madam Chair.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: Assemblyman Barclay.

ASSEMBLYMAN BARCLAY: Thank you,
Chairwoman.

And good afternoon, Commissioner.

I had just one general question about

your testimony where you mentioned the 1.1

million new jobs, private jobs, under this

administration. I live in upstate New York.

We certainly haven't been feeling that

excitement over 1.1 million -- where are

those jobs located?

COMMISSIONER REARDON: They're all

over the state. They're not -- I know a lot

of people think, well, they're in New York

City. There are many in New York City,
because there are more people in New York

City. But they literally are all over the

state.

And I have spent a fair amount of time

in upstate New York and upstate Western New
York -- I don't know which --

ASSEMBLYMAN BARCLAY: Syracuse is

where I'm -- Central New York.

COMMISSIONER REARDON: Got it, yes.

And there are a lot. And I understand the

problems that Syracuse, for instance, really
struggles with. There's extreme poverty. We do a lot of work there. And there is a real focus on making sure that we can connect workers with good jobs.

As I said, the Strikeforce is one of our tools, but we work very closely with the elected leaders in Syracuse and making sure everything that we have in our arsenal is available to the people in New York State and specifically in the City of Syracuse.

ASSEMBLYMAN BARCLAY: I appreciate that. I'm not going to belabor the point. What I'm hearing from our employers in my area -- I'm actually north of Syracuse, I don't represent the city itself, but the suburbs and north -- is, you know, New York makes it noncompetitive for their businesses to operate, and as a result either they're not going to hire more employees or they're going to consider closing business and leaving the state. So I think that's a fight we -- it's not -- this is more just rhetorical, I don't really have a question in that. But I'm just expressing some of my
frustration with doing business in New York
State.

The next one's a little bit more specific. The call-in pay regulations, when they came out, there was a lot of concern about -- we obviously have winter where I am, we have a lot of snow, seasonal challenges, particularly for plow companies and whatnot.

I understand -- I guess I'm asking, where do those stand now? I think there was some amendments to the original proposals and --

COMMISSIONER REARDON: It's been opened twice. We issued the first set of regulations for comment. They had a full comment period. It was very robust. We had an incredible amount of discussion. And we did a lot of outreach to specific industries across the state.

We brought them back in, we did a second set opened to comment, that comment period ended a couple of weeks ago. So now we're in the review period.

I have to say, we have made -- since
I've been at the Department of Labor, we have made a very -- one of our missions is to reach out to businesses to make sure that they're included in these discussions. You know, I always tell workers and businesses, you're in a symbiotic relationship. One cannot live without the other. So we want to make sure whatever we do on regulations helps workers be safe and have a good living and helps employers have a strong access to a good pipeline of talent.

ASSEMBLYMAN BARCLAY: So bringing it back to the call-in pay, what were the changes that were made -- the major changes, I don't have to get every detail on it -- since the first ones were proposed, versus --

COMMISSIONER REARDON: I don't have them right in front of me. I can get that for you. But they're in review right now. We hope to have -- you know, be able to issue them soon, but I don't have a calendar on that.

ASSEMBLYMAN BARCLAY: Okay, thank you, Commissioner.
Thank you, Chairwoman.

CHAIRWOMAN KRUEGER: Oh, sorry.

Senator Funke.

(Laughter.)

CHAIRWOMAN WEINSTEIN: I didn't know who was next, sorry.

SENATOR FUNKE: Thank you, Madam Chair. Thank you, Commissioner, for your comments. I want to talk about the call-back scheduling regulations as well and maybe ask it a somewhat different way than Assemblyman Barclay did.

These issues were raised at a hearing last year by the snowplow industry, but there are several other issues which were raised in the hearing but not addressed. The revised regulations do not include an exemption for students working on a part-time basis with the flexible schedules provided by the car wash industry, for example. And in fact many of the students working for one of the companies submitted letters in support of that particular exemption. So this particular issue has been favorably
editorialized by the Buffalo Evening News, among others.

Would you explain why an exemption for students was not included in the recent revision?

COMMISSIONER REARDON: They are not -- they're in review right now, so I'm not going to comment on what may or may not be in the final recommendation.

SENATOR FUNKE: Okay. And also with respect to the construction industry, there seemed to be, I'm being told, lack of clarity with regard to specific types of activities that are exempted. The concept of directly dependent on weather is not explained except in the case of snow removal. So does this apply in the case of wind and rain and snow events to installing a roof, for example, or pouring concrete, or painting or carpentry or masonry or any of these things, or people on scaffolding and ladders when the ground is soft and could impact the safety of the workers? And does DOL intend to provide further guidance so employers aren't left to
guess about this?

COMMISSIONER REARDON: Well, that's the reason we had the whole second round of comments. And as I said, we have done extensive outreach to many, many, many different kinds of employers, different sectors, and we've gotten a tremendous response from them, which has been very helpful, frankly.

As I said before, these are really complex issues, and I appreciate your concern about it. We want to make sure that we get it right. So, you know, it's in review, and we'll be able to give you some clarity as soon as we're ready to issue the recommendations. But we definitely have taken all of that into consideration. We got a lot of comment from those very businesses that you mentioned.

SENATOR FUNKE: And my final question is, I seem to recall when we went through the minimum wage legislation and we had an upstate component and a downstate component, that there would be an impact study on the
minimum wage, an impact on businesses and employees as well.

Is that being conducted, will it be conducted, and when is it supposed to be conducted and completed?

COMMISSIONER REARDON: So 2019 is the year that the study is supposed to be underway. So we are one month in, and we're gathering the information. This is actually -- that study is going to be overseen by the Department of Budget, and the DOL and DOB will work together on issuing the results.

But that is in its infancy, it's one month in, and we will continue to gather all that information and compile it.

It's an important part of the legislation that you passed, and I appreciate the spirit in which it was done.

SENATOR FUNKE: Commissioner, thank you.

CHAIRWOMAN KRUEGER: Assembly.

CHAIRWOMAN WEINSTEIN: Assemblyman Bronson.

ASSEMBLYMAN BRONSON: Thank you, Madam
Chair.

Commissioner, always nice to see you.

COMMISSIONER REARDON: Thank you.

ASSEMBLYMAN BRONSON: I'm going to start with a conversation we began a few weeks ago when you were up in Rochester and participating in the Regional Economic Development Council's workforce development workshop. And at that time we were expecting an announcement regarding the $175 million workforce training funding, which we fought pretty hard to get and the Governor was able to have it in the budget.

Do we know when we're going to get the parameters of that funding stream out?

COMMISSIONER REARDON: Other than soon, no. But I know that people are working very hard on it. And like when we were at the summit together, this happens everywhere I go, people go, "Where's the money?" And I don't blame them. It's a very important question. I'm hoping that that will be announced fairly soon.

ASSEMBLYMAN BRONSON: So we've also
been in conversations regarding the Foodlink
-- I'm going to call it a pre-apprenticeship
program. It's not exactly an apprenticeship
program. But, you know, there's a lot of
buzz going about that. The Governor
mentioned it in the State of the State
address. Is that type of program one that
you would anticipate to fall under the $175
million proposal?

COMMISSIONER REARDON: You know, I
would think so, but let me check and make
sure. I don't -- I can't tell you absolutely
sure, but I think so.

ASSEMBLYMAN BRONSON: Well, if it's
not -- and actually probably in lieu of doing
it that way, because the program really needs
to get launched and going -- perhaps we could
consider a line item in the budget to cover
-- they're asking for a two-year proposal of
roughly around $600,000 for each of the two
years. So we should be able to find money
for that.

Another thing that we've been working
on for a number of years together, the Empire
State Apprenticeship Tax Credit Program.

COMMISSIONER REARDON: Yes, thank you.

ASSEMBLYMAN BRONSON: I like ESAP better, but the Governor liked Tax Credit Program.

So at any rate, I think we're one full year into this. Do we have any numbers of how many employers have participated and if we have a breakdown -- you know, there's two programs. One is for the disconnected youth, 16 to 24 years, with higher tax credit amounts, the other is just someone that you hire in an apprenticeship program.

COMMISSIONER REARDON: Right.

ASSEMBLYMAN BRONSON: Do we have any numbers on that?

COMMISSIONER REARDON: So in 2018 we had 52 programs enrolled, and that was by 34 businesses. So business can have more than one apprenticeship program.

I don't have the drill-down on the differences between the disadvantaged youth and just the straight apprentice. I can get that for you.
ASSEMBLYMAN BRONSON: Okay.

COMMISSIONER REARDON: It is a real benefit. And I just have to say, everywhere I go, I know my staff looks at me like, when is she going to stop doing this? But I think the apprenticeship program is so important and it is such a wonderful gateway for young people to get training for a career without accumulating college debt. It is really critical.

And we are really -- we're focusing, as you know, the building construction trades have the majority of these programs, the majority of the apprentices, and they really are the gold standard. But we're looking to expand that outwards to other areas like IT and healthcare. I'm even talking to the agricultural community about it. Because we want to guarantee a pipeline of trained workers, and apprenticeship is a wonderful way to do it.

ASSEMBLYMAN BRONSON: I agree a hundred percent. And I would add it also allows people to earn as they learn, which
really helps folks who are coming from lower-income families.

COMMISSIONER REARDON: Yes.

ASSEMBLYMAN BRONSON: One last line of questioning. In connection with public works, the Governor mentioned in his State of the State that he was in favor of where we have private-public partnerships and there are taxpayer dollars being expended, that those workers should be receiving prevailing wage.

We know that from peer-reviewed studies it’s clear that there is not a significant increase in the cost of those projects. In fact, sometimes there’s a lower cost. You have local workers, local contractors involved who then contribute to the community through their spending in our economy. We also have more transparency and accountability.

My question for you is, do we have any idea of what the parameters are that the Governor is going to be proposing when it comes to the public works? Because there
wasn't stuff in the budget regarding it.

COMMISSIONER REARDON: I do not have any of that information. I do know that there's a bill in the Legislature, and I'm interested to see how that progresses.

Of course I'm very happy to enforce whatever you make a law.

ASSEMBLYMAN BRONSON: Okay. And have you had any conversations or are you aware whether the Governor's approach is going to be a statewide approach or just a New York City approach?

COMMISSIONER REARDON: I don't have -- I haven't had those conversations.

ASSEMBLYMAN BRONSON: Okay, thank you, Commissioner. Appreciate it.

CHAIRWOMAN WEINSTEIN: Senate.

CHAIRWOMAN KRUEGER: Thank you.

Senator Shelley Mayer.

SENATOR MAYER: Thank you, Madam Chair.

Commissioner, pleasure to see you.

COMMISSIONER REARDON: Thank you.

SENATOR MAYER: First question on the
New York Youth Jobs program. Do you have a regional breakdown of where those jobs are?

COMMISSIONER REARDON: I don't know.

We probably do. I can ask and find out for you.

SENATOR MAYER: That would be helpful.

I think you may remember that in Yonkers we promoted it very extensively, and yet I was not clear that the number of jobs -- people that actually stayed -- was very substantial.

So it would be useful to see a regional breakdown.

COMMISSIONER REARDON: Okay. Happy to do it.

SENATOR MAYER: And as a follow-up on this conversation about public work and prevailing wage, I also was heartened by the Governor's statement during the State of the State regarding this, but frankly somewhat disappointed that there was not language in the budget about it.

So while we are trying to move forward with Senator Ramos's bill in the Senate and Assemblyman Bronson's bill, which has a very
profound impact in the suburban communities outside New York City as they continue to develop basically using nonunion labor and not paying prevailing wage, what actions is the department taking to ensure that the contractors that are on these jobs are paying people properly, are providing all the safety equipment that is required, and are taking every other step that they ought to be?

And are you dependent on complaints being made, or is the department aggressively monitoring these contractors?

COMMISSIONER REARDON: The labor standards part of this is most reliant on tips, which we follow up -- $35 million returned to over 35,000 workers. So I think we're doing a decent job at it.

The safety components really for the most part is an OSHA responsibility. So we do trade information with OSHA when we see things on a worksite -- you know, there is that kind of relationship -- but it's not something that we directly oversee. We do it for public safety and health, but not
private.

But, you know, we are -- we've actually done roundtables around the state with labor to train them about what kind of information we need to follow -- to get good tips on all kinds of enforcement issues. So we actually go out to our partners and say, If you see something on a worksite, this is helpful, this is not. And that has worked a lot. It's been very, very helpful.

SENATOR MAYER: But does the department engage in random checks of contractors on these -- where you may have heard, if not from a tip, that either someone was injured, someone was paid --

COMMISSIONER REARDON: Oh, if someone is injured, you know, we will follow up. You know, that kind of thing. But we don't proactively just walk into, you know, your average construction site and pull their wage records.

SENATOR MAYER: Although you do have the authority --

COMMISSIONER REARDON: We could.
SENATOR MAYER: -- correct?

COMMISSIONER REARDON: Mm-hmm.

SENATOR MAYER: Okay. Thank you.

COMMISSIONER REARDON: Thank you.

CHAIRWOMAN KRUEGER: Assembly.

CHAIRWOMAN WEINSTEIN: Assemblywoman Cruz.

ASSEMBLYWOMAN CRUZ: Commissioner, so good to see you.

COMMISSIONER REARDON: So good to see you on that side of the table.

ASSEMBLYWOMAN CRUZ: Well, one of the biggest complaints that I often get from advocates who bring workers forward -- and back when we were working together, it's one of the things that we still heard -- was the difficulty in once the DOL made a finding of wages owed, of wage theft, of actually recovering those funds. So one of the things that we'd love clarity on is, the 35 million that you mentioned, is it assessed or is it actually returned to workers?

COMMISSIONER REARDON: Returned to workers.
ASSEMBLYWOMAN CRUZ: And how is that being done now? Because in the past it used to be assessed, and we would have difficulty actually enforcing that and getting the workers to feel like they could trust the Department of Labor and get the money back.

And that's one of the main reasons why workers would often opt for other options other than the Department of Labor.

COMMISSIONER REARDON: That is a great question. Undoubtedly it is sometimes difficult to collect. Sometimes employers close their businesses and reappear under another name. You know, they disappear into the night. Those bad players are bad across the spectrum, not just in wages, and we chase them as much as we can. And you know how difficult it is. But we are really focused on making sure we can get that money back.

One of the -- you know, oftentimes -- not always, by any stretch of the imagination, but some of these workers are undocumented. And so that makes it harder to find them. We make every effort in every
community to make sure that those workers
understand we are not interested in your
documentation, that is not our job. We can't
enforce federal regulations on immigration.
Our job is to make sure that you're protected
under New York State law.

And we've made some good progress.
We've been working with the Department of
State on immigrant issues, doing a lot of out
work -- you know, you did a lot of it before
you left us and went to the other side, so
you know what that's like. But it's
really -- the last couple of years have
really been great, and I'm very proud of the
record that we've begun to build working with
immigrant workers.

ASSEMBLYWOMAN CRUZ: And speaking of
immigrant workers, what's the Department of
Labor doing to encourage workers to actually
come forward when you have instances of
retaliation that we're often seeing in the
news where workers are being told "If you
come forward, we're going to get you
deported"? Is the anti-retaliation unit
still in place --

COMMISSIONER REARDON: Oh, very much so.

ASSEMBLYWOMAN CRUZ: -- and how is that functioning?

COMMISSIONER REARDON: Yes, it is a very active unit. I happily say it's I believe five women who are doing all of this anti-retaliation work at the DOL. I think they've added one man. But they're very good at their jobs, and they take it very seriously.

And again, we've worked very closely with the Department of State to make sure that the immigrant community knows that we're here to help and the Governor is interested in making sure that they're protected in this state.

So as difficult as the national immigration picture may be, we're working very hard in New York State to make sure that all workers are protected.

ASSEMBLYWOMAN CRUZ: And lastly, on farmworkers, what is the average age of a
farmworker right now? Because what we often
hear is that if the Farmworker Bill of Rights
were to pass, we'd have a downfall of our
farming industry. So I'm working, what is
the average wage of a farmworker right now?

COMMISSIONER REARDON: So

interestingly -- and I think it varies, of
course, from region to region and what kind
of farming you do, whether you're a dairy
farmer or a grower and seasonal and all that
kind of stuff.

But the average income for a worker is
actually above minimum wage across the state.
Now, part of that's because many of them use
the H1B visas, and they are paid a higher
wage by contract.

The Governor asked us to set up an Ag
Labor Committee, Richard Ball and I did it
three years ago. And remarkably -- it's
working remarkably well. So this was really
the Hatfields and the McCoys. It was the
advocates and the farm owners, and they were
not used to sitting and collectively talking
to each other.
Three years later, we have very productive meetings about a lot of issues that they have a mutual concern about -- housing, protecting their workers on the farms from raids, that kind of thing. So we are really making progress. And it's a great example of something I deeply believe in, is even though you may not agree with each other, come to a table and find the thing in the middle of the table you can talk about, and then work to the outside.

And it's -- we're making a lot of progress. And I'm very happy to say that I think farmworkers are in a better place today than they were three years ago, thanks to the Governor.

ASSEMBLYWOMAN CRUZ: Thank you, Commissioner.

And just in closing, I'd encourage the Department of Labor to continue some of the work we started with the consulates. Unfortunately, as we see more and more immigrants removed and returned to their home countries, we are going to see workers who
are going to be owed wages and who are not
going to be able to collect the wages that
they rightfully worked to earn.

   And so we had started conversations
with the consulates to be able to at least
get them the money that they worked for.

Thank you, Commissioner.

COMMISSIONER REARDON: And I know that
we’ve been able to send some checks out of
the country to some of those workers.

ASSEMBLYWOMAN CRUZ: Thank you,
Commissioner.

CHAIRWOMAN KRUEGER: Thank you.

Senator Diane Savino.

SENATOR SAVINO: Thank you. Perfect
timing. I got here right on time.

Good afternoon, Commissioner.

So I want to remind you again I
oftentimes feel guilty about all of the work
that I have saddled your agency with -- the
Wage Theft Prevention Act, misclass in the
construction industry, misclass in the
trucking industry, prompt payment in the
construction industry, and Domestic Workers
COMMISSIONER REARDON: And I always tell you we welcome the work, and thank you.

SENATOR SAVINO: And I'm happy to see that the state workforce is growing this year by about 2300 full-time equivalents. How many of them are going to be dedicated to DOL, if you know?

COMMISSIONER REARDON: So we have increased our inspectors recently. And they do an amazing job. They really are very dedicated. We're also doing a lot of work in the agency with digital technology. Because, you know, we used to be very much a paper triplicate, you know, kind of business. We're changing that as rapidly as we can, because we realize we're all being asked to do more with less, but IT is really going to be our savior and we're really making inroads on that.

SENATOR SAVINO: I'm glad to hear that, because that was going to be one of my questions, are we able to now utilize technology in a better way to process some of
these claims.

With respect to the idea of technology and how it's going to affect the workforce in what we all call the gig economy -- which really is not one single thing, it's a kind of broader question about how we modernize the workforce and recognize that the world of work is changing.

And one of the things I'm becoming increasingly concerned about is that there are whole sections of the workforce that are going to disappear. Jobs that will no longer -- it won't make sense for employers to maintain them, whether they be clerical jobs, some jobs in the food service industry. Because it's not just that technology is replacing people, it's things like artificial intelligence and even chatbots.

So chatbots are basically robots, but they're digital robots. They can handle call center jobs, they can handle -- there's a possibility you could see them doing 911 operator jobs. And these are actual jobs within government service that have provided
a pathway to the middle class for millions of New Yorkers over the generations. And I'm concerned that some of those positions will disappear. And what are we doing to retrain the workforce going forward for different types of opportunities? And is DOL thinking down that road?

COMMISSIONER REARDON: We are very much thinking down that road. I did a presentation at Rockefeller Institute about a month ago on AI which was eye-opening for me to even participate in it.

I always say to people, look, do you want to be the buggy whip maker when the cars appear on the roads? Some of the buggy whip makers learned to adapt and started stitching the leather seat covers for the cars. That's where we are. I mean, we're not going to stop technology, technology -- it's not new, it's new -- this kind is new, but we're here because of change.

So we are very aware that we have to be ready to retool people. There's an important concept that we're talking a lot
about now, which is lifelong learning. It used to be that you could go to college -- well, first of all, you'd go to high school and get your diploma and go to work and have a good job. Now you have to have some kind of postsecondary training, whether it's an apprenticeship, on-the-job training, a four-year college, whatever it is.

And the big thing with the AI revolution is that we all have to expect to continue learning through our careers, because our jobs are going to change. And we have to be ready to change with them. Part of that means that our population needs to expect to go back for refreshers, for retraining, for differences in their employment. Employers need to think about how do they invest in their workforce so that they're not leaving behind the very valuable people that have helped them establish their business because they're beginning to lose those skills. That's why I always love apprenticeship, because that's an investment in workers from the very beginning.
But it's a concept that we as a culture and a society really have to engage in and engage in a very early place, that lifelong learning is going to be what we have to do, as machines learn to do some of the dull, repetitive work that humans do now. If we had AI coming into the Department of Labor, we wouldn't fire people, we'd happily go, ah, your job has been automated, so we can actually use you over here to do a more skilled job. And that's the kind of thinking that people have to have.

SENATOR SAVINO: I'm very happy to hear that you're thinking that way, and I look forward to working with you on some of these issues. Because as I've said many times, the world of work is changing. We're either going to change with it or we'll be left behind.

COMMISSIONER REARDON: Yup.

SENATOR SAVINO: Thank you.

COMMISSIONER REARDON: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.
CHAIRWOMAN WEINSTEIN: Yes, we go to
Assemblyman Mosley, chair of the Commission
on Skills Development.

ASSEMBLYMAN MOSLEY: Thank you, Madam
Chair. Thank you, Commissioner, for being
here.

(Calls of "mic.")

ASSEMBLYMAN MOSLEY: Oh, I'm sorry, I
apologize. Thank you, Madam Chair.

Commissioner, thank you for your
testimony and for your questions. I'll be
brief, because I only have one question.

But first I want to thank you for the
increase in the Executive Budget,
$27.3 million for the Workforce Investment
Act, which the total increase is a little
over $36 million for the federal Workforce
Innovation and Opportunity Act, which I
really approve.

The one thing I just want to talk
about is the elimination of a couple of
things that historically the Assembly has
added back in its one-house and eventually
making it into the final budget: The close
to a million dollars to county chambers of commerce for on-the-job training funding, as well as the $1.6 million elimination, the million dollars in displaced homemaker funding under the Department of Labor.

I just want to find out what was the rationale behind those cuts and whether or not we're making up for something else or taking those resources and using it elsewhere. Or do we just find that the executive branch feels that these two items are obsolete going forward?

COMMISSIONER REARDON: I don't actually know the answer to that. I'll have to get you a better answer. We don't do that part of the budget. But I can definitely get you an answer, particularly on the displaced homemakers.

ASSEMBLYMAN MOSLEY: Okay. So can I just set up a time with your staff --

COMMISSIONER REARDON: Sure.

Absolutely.

ASSEMBLYMAN MOSLEY: All right. Thank you.
CHAIRWOMAN KRUEGER: Senator Ramos, second round.

SENATOR RAMOS: Hello. Last year an investment of $175 million was announced for workforce development, but it's unclear how those funds were or will be allocated. What's the status of the funding? Has some of the funding already been earmarked for previously announced initiatives? When can we expect this funding to hit the streets? Will the funding be only available through the state's CFA?

COMMISSIONER REARDON: So working backwards, as I understand it, we're not overseeing the Workforce Development Office. We're a big part of it, but there will be separate administration of that. And some of that money comes directly from the Department of Labor, but we only have $20 million in the $175 million. Other money comes from other areas. I think SUNY and CUNY have a large part of that funding. It will be done through an expanded CFA. And it has not been -- the CFA process
has not been invoked yet for that money, but
I expect an announcement fairly soon. And it
will be for training programs.

The idea, as I understand it, behind
the Workforce Development Office is to be
able to align the priorities of the Regional
Economic Development Councils so when they do
workforce training programs, you know, if you
need welders in Central New York, you want to
make sure that the training providers are
there to provide that pipeline. And that has
not always happened. It's not always that
clear. Because there are a lot of different
training programs across the state, across
the state agencies. This is a way to align
those priorities and make sure that people
know where to go to get questions answered.

And then the money will be coming out
from that office. So I look forward to
working with them. It's an exciting idea.

SENATOR RAMOS: All right, thank you.

I also wanted to ask about the Census
and whether you're concerned that the efforts
to reduce an accurate count will negatively
impact on the New York State Data Center.

How do you feel about that?

COMMISSIONER REARDON: So I'm very happy to say that I was just announced to be part of the commission, so I'm looking forward to working on that. Part of the Census, as you know, the Data Center is in the Department of Labor, so we're already beginning preparation.

We are always concerned that the Census be done appropriately and get the kind of information that not just New York State but all states require to function as they should. But we take the Census very seriously, and I'm looking forward to the work on the commission, because every New Yorker must be counted.

SENATOR RAMOS: I agree. I agree.

Sort of along those lines of diversity, I wanted to ask about affirmative action and Executive Order 187. And I wanted to ask how -- it required the CDO and the commissioner for Civil Service to prepare statewide objectives for the employment of
minorities, women, LGBT, disabled people and veterans.

This report was due December 31st.

Are there copies of that report available for distribution?

COMMISSIONER REARDON: I believe that's a report that's actually coming out of Civil Service. I don't think it's coming out of us.

SENATOR RAMOS: Okay. All right, Thank you.

COMMISSIONER REARDON: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

CHAIRWOMAN WEINSTEIN: Commissioner, I have a quick question.

I was wondering if you could provide us with a status update on the Pay for Success program. And what kind of outcomes have we seen so far?

COMMISSIONER REARDON: So Pay for Success is a way to support formerly incarcerated people coming out of serving their time. And I don't have the exact
numbers in my prep material here, but it
is -- you know, it has been a very useful
tool, and we continue to use it.

There are a number of efforts to help
people coming out of incarceration, help them
return to a productive life in their
community, and that's one of them. It's a
good tool.

CHAIRWOMAN WEINSTEIN: Great. So
that's it for me.

But we're going to move for a second
round to Assemblyman Crespo.

ASSEMBLYMAN CRESPO: Sexual
harassment. I know that last year we enacted
new mandates on businesses to provide
training. And as you know, we'll be
conducting a hearing with the Senate and
Assembly on the 13th. Hope to be able to
speak to you then as well.

But what has happened since the
enactment of the legislation? How have
businesses across the state been informed of
the new regulations? How does it work in
terms of access to the actual trainings for
the employer to provide? And particularly I'm concerned about smaller businesses in communities like mine, especially when there's a language barrier already for the small mom-and-pop -- you know, the cosmetologist who knows how to do hair but not necessarily an expert at running a business, nor do they have personnel or HR departments.

So how are you reaching them, and how do they know what the regulations are to prevent --

COMMISSIONER REARDON: It's a great question. So we did a lot of work on the sexual harassment training. There's a whole toolkit for employers. It includes FAQs, there's a video done by a wonderful person about sexual harassment. And it's a video that can be used straight out of the box. If you are an employer, if you're the cosmetician who doesn't know much about it, you can use this video to train your employees, you don't have to change anything in it, it's free.
So the state focused on making sure that the toolkit was available. I believe it's in English and Spanish -- I'll have to check, but I'm pretty sure we have it also in Spanish. And there's supporting documents.

I have heard in the past a lot of particularly larger businesses would hire an outside firm to conduct their sexual harassment training. That's very expensive. We want to make sure that businesses don't have to incur that kind of cost.

You can use the video, you can use it as is, you can tailor it to your kind of work. If you want to put in some extra things because you work in the hospitality industry and the examples are more towards your industry, you're certainly able to do that. There's a lot of different ways to deliver it. The main thing is it has to be some kind of interaction so that the employee is not trained passively, so that they are actually engaged in the training.

But you can do it on video, you can do it in person. We are available across the
state to work with employers on this. Again,
our business services people carry that
information when they go out to businesses.
And we have some information in our 96 Career
Centers.

The main thing is we want to make it
affordable for employers and accessible for
employees. And one of the things that I've
heard repeatedly around the state from
business owners was thank you. Because they
are liable to be sued if they don't follow
the law or some person is harassed in their
employment.

So this is actually protective on both
sides. The employee is protected from
harassment, and the employer is protected
from a lawsuit. So it's good for everybody.

And in the current climate, when
everybody is so aware of this, we're really
glad to be able to offer this. It's on our
website. It's downloadable. And most
important, it's free.

ASSEMBLYMAN CRESPO: So is there an
effort to expand the number of languages that
it's available in?

COMMISSIONER REARDON: I'd have to check. I know that we've -- probably. I mean, we have a language accessible mandate in the state, so we can certainly do that.

ASSEMBLYMAN CRESPO: And just so that I'm clear, the small stores, the mom-and-pops, those smaller employers, they would have received what, a letter from the Department of Labor, from another agency?

How do they even know that this is --

COMMISSIONER REARDON: I'm not -- I don't know the agency-to-business touch per business, but I can find out for you. But there's been a lot of public discussion about what's available. You can always do more, of course.

ASSEMBLYMAN CRESPO: Well, we want to help fill the gaps at least locally in our own respective communities.

COMMISSIONER REARDON: And if there's more that we can do, please recommend it to us.

ASSEMBLYMAN CRESPO: Thank you.
CHAIRWOMAN KRUEGER: I was wrong when I said the Senate closed.

Jamaal Bailey.

SENATOR BAILEY: It's always good to be late and put on the spot like that. Thank you, Liz.

(Laughter.)

SENATOR BAILEY: I apologize for my lateness.

COMMISSIONER REARDON: In under the wire.

SENATOR BAILEY: Well, yes. It will be very quick. I only had one question for you, Commissioner. Thank you for coming today.

I am a huge proponent of worker-owned businesses, worker co-ops. And I just wanted to know, do you or the Department of Labor -- I know it's not necessarily a budgetary issue, but I just wanted to ask your opinion.

What are your beliefs about worker co-ops? Do you see them as a viable -- something viable in the State of New York?

Because I'm looking to partner with
you and my colleagues in government to make sure that we can expand worker co-ops and the economic benefits, greater governance, greater wages, more progressive governance style. And I just wanted to ask you your opinion on co-ops.

COMMISSIONER REARDON: I would certainly welcome that conversation. We have had conversations with other interested people. I know that -- I think it's the Workers Institute at Cornell has a program on co-ops.

So, you know, we'd be happy to sit down and talk with you about it, and certainly direct you to any of the programs I know that are working in that area.

SENATOR BAILEY: Certainly. There are a number of organizations who are doing this throughout the state. Myself and other members of this -- actually on the panel, Assemblyman Mosley was with me. We went to Spain, to Mondragon, where we studied a worker cooperative ecosystem and how ecosystems, economic ecosystems can benefit
regions and towns from small-scale to large-scale.

So it's just something that I'm very passionate about. I wanted to just flag it for you, just hopeful that we can have further discussions on it.

COMMISSIONER REARDON: I would love to.

SENATOR BAILEY: Thank you, Commissioner. Nothing further.

CHAIRWOMAN KRUEGER: Thank you.

I think that's it. Thank you very much, Commissioner Reardon.

COMMISSIONER REARDON: Thank you very much.

CHAIRWOMAN KRUEGER: Thank you. And our next testifier will be Acting Commissioner Lola Brabham of the New York State Department of Civil Service.

Good afternoon.

ACTING COMMISSIONER BRABHAM: Good afternoon.

Good afternoon, Chairs Krueger, Weinstein and distinguished members of the
I appreciate the opportunity to appear before you today to comment on Governor Cuomo’s Executive Budget for fiscal year 2020 as it relates to the Department of Civil Service, and to share some of the department’s key accomplishments over the past year.

As the central personnel arm for New York State, the department is charged with providing critical HR services and support to state agencies, helping them meet their strategic workforce needs and carry out their respective missions. In 2018, the department made significant progress to improve our programs and services, including modernizing our approach to testing, strengthening diversity and inclusion in the workplace, and implementing workforce development strategies to hire and retain the
best and brightest to work for the State of New York.

In 2018, the department worked closely with the Office of Information Technology Services on a joint initiative to modernize the state’s approach to test delivery and enable greater use of computerized testing. By summer 2019, civil service exams will be created and scored in a new system, which will reduce the amount of time it takes to build and score tests and ensure that the department can be more responsive to the hiring needs of state agencies and local governments.

The department recently launched the Civil Service Institute, a new training program for state and local HR professionals that covers all aspects of civil service administration. The institute will ensure that all HR professionals have a solid understanding of civil service administration, so that we improve the consistency and quality of HR management across New York State.
At the same time, new training opportunities are being offered to state employees via the institute to enhance their knowledge and awareness of career mobility opportunities. By engaging employees at all levels, the department is providing both state and local agencies with yet another tool for workforce development.

In response to legislation signed by Governor Cuomo, the department has undertaken efforts to analyze data and develop a comprehensive report detailing flexible and alternative work schedules currently in place at state agencies. This report builds upon Governor Cuomo's ongoing legacy for pursuing equality and flexibility in the workplace and complements the department's efforts to improve work-life balance for all state employees.

Under Governor Cuomo's leadership, the department is strengthening diversity and equal opportunity across state government. In August 2018, Governor Cuomo signed Executive Order 187, which established the
Office of Diversity Management within the department to support statewide diversity and inclusion practices, policies, and programs throughout state agencies.

Further, the executive order created a new Executive Committee for Diversity and Inclusion to advise the governor, the chief diversity officer, and the commissioner of Civil Service in overseeing the effective implementation of these initiatives.

These actions complement a series of initiatives already underway, from expanding testing venues to the establishment of new diversity and inclusion training, to cultivate a more inclusive work environment for all employees.

To ensure that state agencies adhere to consistent workforce management practices and collaborate to establish an HR community of practice, an Agency Deputy for Administration Policy Team, or ADAPT, was recently established. Deputy commissioners for administration across state government are now participating in HR program and
policy meetings led by the department and the
New York State Personnel Council to share
best practices on topics including workforce
development, succession planning,
telecommuting, and the statewide mentoring
program, among others.

To attract new talent to the state
workforce, the department is pleased to offer
the Professional Career Opportunities exam in
early 2019. By providing a single mechanism
for college graduates to compete for over 100
entry-level professional positions across
state government, the PCO exam ensures that
agencies have a diverse and qualified
pipeline of talent available to meet their
hiring needs.

In the health benefits arena, the
department is focused on efficiently
administering the New York State Health
Insurance Program through seven discrete
employee benefit programs available under
statute or through collective bargaining. The
department remains committed to providing
affordable healthcare to over 1.2 million
state and local government employees, retirees, and their families enrolled in NYSHIP, while protecting taxpayers through cost-effective management.

We also continue to collaborate with the Governor's Office of Employee Relations, the Workers Compensation Board, and other partner agencies to deliver the nation's strongest and most comprehensive paid family leave policy to our management/confidential employees. We look forward to expanding this benefit to other state employees in 2019, as state employee unions ratify agreements to provide paid family leave to their members.

As you can see, the department is improving workforce efficiencies, planning strategically for the future, and collaborating with our partner agencies to improve services for all New Yorkers. Thank you for the opportunity to appear before you today, and I'm happy to answer any questions you may have at this time.

CHAIRWOMAN KRUEGER: Thank you. Thank you very much for your testimony today.
And I just have a quick question. So you're acting. Are you expected to become confirmed, is that a plan or a goal?

ACTING COMMISSIONER BRABHAM: I have been nominated by the Governor for confirmation, and I await that opportunity.

CHAIRWOMAN KRUEGER: Thank you.

And our first testifier will be the Senator for Civil Service and --

SENATOR GOUNARDES: -- Pensions.

CHAIRWOMAN KRUEGER: Thank you, Andrew Gounardes. And I don't believe I introduced him by name when he walked in earlier --

SENATOR GOUNARDES: That's okay.

CHAIRWOMAN KRUEGER: -- so I wanted to make sure I got the full title out this time.

SENATOR GOUNARDES: Thank you very much.

Thank you, Commissioner, and congratulations on your nomination.

I have a bunch of questions. First I want to focus on health insurance. And the Governor's prepared budget establishes a contribution rate for employees who are hired
after April 1st of this year, but part A of the budget but does not address anything about current retirees. So I have two kinds of quick questions for you.

Number one, the Civil Service Commission sets the state's compensation rate for retirees for their health insurance. How do we determine that contribution rate? What are the factors that go into that?

ACTING COMMISSIONER BRABHAM: Retirees don't have a different contribution rate, if you're referring to the premiums.

So there are three different proposals in the budget that deal -- potentially could deal with retirees. So I'm not sure if you're referring to the Article VII on the sliding scale proposal, in terms of the value of the retiree health insurance when someone has retired. So if that's what you're referring to --

SENATOR GOUNARDES: Yes, I'm sorry.

-- we'll start with that.

SENATOR GOUNARDES: It's my first
go-round here, so I'm learning the lingo and
terminology. So bear with me. But yes,
yeah.

ACTING COMMISSIONER BRABHAM: No
problem. No problem at all.

So that proposal essentially puts
retiree health insurance on par with a
pension. So right now the longer you work in
state government and the greater number of
years you have in service, the greater your
pension. So this proposal would put health
insurance along those same lines. The longer
a person works, the more valuable their
health insurance benefit would be when they
retire.

SENATOR GOUNARDES: Thank you.

And my reading of the proposal, the
Governor's proposal, is that employees who
retire with a disability retirement are
excluded from that as well?

ACTING COMMISSIONER BRABHAM: That's
correct.

SENATOR GOUNARDES: So what factors go
into calculating the rate for those
individuals? How does that get factored together?

ACTING COMMISSIONER BRABHAM: Well, individuals who retire with a disability benefit aren't working the full 30 years, so they're exempted from this proposal because they have a disability and they would be retiring at 25 years.

SENATOR GOUNARDES: Okay. But there is nothing to kind of provide them coverage even despite their disability, just ongoing health insurance coverage, I guess is the point of the question I'm trying to get to.

ACTING COMMISSIONER BRABHAM: They would be provided coverage as long as they meet all of the other eligibility factors for retiree coverage under the health insurance program.

SENATOR GOUNARDES: Okay, thank you. I want to transition to talking about provisional and temporary employees. I know this has been a topic that's come up a few years in a row.

And I guess my first question is how
many provisional employees are currently employed by the state? And how long have these employees held these provisional appointments for?

ACTING COMMISSIONER BRABHAM: So there are -- I think there are probably about 1300 provisional appointments right now.

SENATOR GOUNARDES: And the general length of those appointments?

ACTING COMMISSIONER BRABHAM: Those appointments are as long as there is no existing eligible list for an individual to be appointed from.

So there are some times when an agency has a need to hire someone, the test hasn't been given yet. They are allowed to appoint an individual provisionally until the test is held. When the test is held, the person must take the test. And when the results of the test come out and the eligible list is established, the individual who was appointed provisionally would have had to have scored high enough to be reachable on the list in order to keep the job. And if they are not,
then they are no longer in the job and
someone who scored higher on the list would
be appointed.

SENATOR GOUNARDES: And so I guess the
concern is that we are not -- we're filling
positions in a noncompetitive manner overall.
So the question or I guess the heart of the
matter is, what are we doing to ensure that
those provisional or temporary placements are
as short-lived as possible so we can actually
move towards filling those positions with
competitive exam-based placements?

ACTING COMMISSIONER BRABHAM: Just a
point of clarification on the provisional
appointments. In order to be appointed
 provisionally, you have to be in the
candidate field for that appointment.
So in other words, if I'm working in a
job, I know that when I take the promotion
exam I would be able to be promoted to the
Grade 23 or the Grade 25, which means that
I'm already holding a competitive
appointment, and that is part of what makes
me eligible for a provisional appointment.
And then to the second part of your question about the length of time, I -- you know, and I think that varies. But for the most part, we work with agencies -- that's one of the things that we pay attention to when we're deciding which exams to hold and what are the priority exams.

One of the first things that we do look at when agencies give us their exam request is we look at where there are provisional appointments and where people are serving provisionally, and we try to hold those exams because we don't want the employee or the agency to be in limbo status with the provisional appointment. And so we try to make sure that we hold those tests on a priority basis so that appointments can be made.

SENATOR GOUNARDES: Okay. Thank you for that.

And, you know, kind of the last question I guess I have for right now is in talking to people and kind of wrapping my head around a lot of these issues that are
now coming before my committee, there are
tiles, you know, numerous titles in
noncompetitive classes that would seem to not
be policy-making titles, they seem to be more
analysts, accountants, auditors, specialists,
IT specialists, things like that.

Why are these things being classified
as noncompetitive? Can you just shed some
light on that for me?

ACTING COMMISSIONER BRABHAM: Sure.

Just as a point of clarification, a position
need not be policy-making to be classified as
noncompetitive.

And secondarily, the noncompetitive
status is something that is provided for in
Civil Service Law. So it's another workforce
management tool that is available to us under
the law.

SENATOR GOUNARDES: Okay. That's all
I have for now. Thank you.

ACTING COMMISSIONER BRABHAM: Thank
you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.
CHAIRWOMAN WEINSTEIN: Assemblyman Peter Abbate, chair of Governmental Employees.

ASSEMBLYMAN ABBATE: Thank you, Helene.

I noticed that the Governor has some oldies but not goodies in this year's budget once again, so I won't go over those. Just one or two questions on some of the things that have been proposed that I try to get some clarification on.

ACTING COMMISSIONER BRABHAM: Sure.

ASSEMBLYMAN ABBATE: Proposing language to allow the Department of Civil Service to establish continuous eligibility lists so you won't have to give an examination?

ACTING COMMISSIONER BRABHAM: No, sir.

ASSEMBLYMAN ABBATE: No? What's --

ACTING COMMISSIONER BRABHAM: That proposal --

ASSEMBLYMAN ABBATE: That's Part LL?

ACTING COMMISSIONER BRABHAM: Yes, you're referring to the Article VII bill that
would expand the use of continuous recruitment. And that is by examination. So that would actually afford -- right now, the only time we can hold a continuous recruitment exam is when there are not enough individuals on an eligible list to fill a job. One of the things that agencies continually ask for is the ability to hold tests more often and on a continuous basis.

ASSEMBLYMAN ABBATE: That's the question I was getting to, exactly.

ACTING COMMISSIONER BRABHAM: So for example, like the Department of Corrections. They really go through their eligible list very quickly, and they'd like to have the opportunity to hold it on a open -- a open -- I'm sorry, I got off track for a second there -- on a continuous recruitment basis to make sure that they always have enough candidates in the pipeline to appoint to positions.

ASSEMBLYMAN ABBATE: So there would still be an exam given.

ACTING COMMISSIONER BRABHAM: Yes.
ASSEMBLYMAN ABBATE: Okay. And the other one is what the Governor calls, in the Article VII, the Safety Protection for Existing Public Employees, where if an employee was transferred from one position to another, their salary remained the same. Could you give me an example what he's trying to do with that?

ACTING COMMISSIONER BRABHAM: Sure. That salary protection has to do with when a position is reclassified or reallocated, it is sometimes the case that, you know, a grade that maybe was a Grade 15 could be reallocated to a Grade 12. When that happens, any individual serving in that position is held harmless so that their salary is not reduced. As long as they stay in that particular position. However, if that individual were to take a lateral assignment either within their own agency or at another agency, their salary would be reduced. So the idea here is that the
individual be given salary protection

regardless of whether or not they stay in

that particular position or whether they take

a -- make a lateral move and go into another

position at the same grade level at that

agency or any other agency.

ASSEMBLYMAN ABBATE: It has to be at

the same grade level? Because the way it's

worded, it can mean like someone can come

from IT or someone can come from the State

University at a very high salary, get a

provision -- get a temporary spot in the

Governor's office or in the Senate, and

maintain that high salary.

ACTING COMMISSIONER BRABHAM: No, sir,

that would be incorrect. It has to do with

the competitive --

ASSEMBLYMAN ABBATE: That's not the

way it's worded.

ACTING COMMISSIONER BRABHAM: Okay.

Well, I'm clarifying for you that it has to

do with the competitive service and it has to

do with when a position within the

competitive service has been reallocated and
the grade level has changed.

ASSEMBLYMAN ABBATE: So in other words, if someone, you know, before the salary adjustments were made, if someone was working at a previous job and then became a commissioner -- where some remained acting commissioners because their salary was higher as acting than lower, under this proposal, they could have kept the higher salary.

ACTING COMMISSIONER BRABHAM: No, sir. What you're referring to is, you know, commissioners and people who work in the Senate are all part of the unclassified service. And this provision would not cover those individuals. This position covers competitive positions in the instance where my department, and specifically the office of Classification and Compensation, has taken a look at the position, as we sometimes do, with an eye towards equal pay for equal work.

So when we take a look at positions and we analyze them, if we see that there are a number of positions that do similar work across state agencies that are at a
particular grade level, that tells us that
something has gotten out of whack and it
needs to be adjusted, and the salary is
adjusted. However, the individuals serving
in those positions are not penalized by that
by having their salary reduced.

ASSEMBLYMAN ABBATE: No, I'm in full
agreement that the salary shouldn't be
reduced at all. Just looking at what's
proposed in the Governor's budget raises some
flags. Thank you.

ACTING COMMISSIONER BRABHAM: Thank
you.

CHAIRWOMAN KRUEGER: Thank you.

SENATOR SEWARD: Thank you, Acting
Commissioner, and hopefully soon to be
Commissioner.

I have some questions. I went looking
for further clarification on a couple of
issues that have already been raised here
tonight, and that is the differential in
retiree healthcare premiums. You know, the
Executive Budget proposes that sliding-scale
reimbursement for post-retirement healthcare costs.

And employees have had to contribute more to their healthcare costs over the last several years because the Executive has the administrative authority to increase the cost-sharing. And my question is, if this proposal in terms of the sliding-scale reimbursement is not enacted -- or even if it is, either way -- do you foresee any increased cost-sharing for health insurance for retirees or active employees?

ACTING COMMISSIONER BRABHAM: So as a point of clarification, the reason why these and other proposals are, you know, in the budget is not simply because, you know, we kind of have the administrative power to do it. It's because the cost of health insurance continues to rise year after year and we look for tools at our disposal to help rein in those costs.

To the second part of your question, if the proposal was enacted would there be some increase to, potentially, the cost of
health insurance for people who don't work for 30 years and obtain full retirement, the answer would be yes. There would be -- that's not something for right now. Because that proposal, when fully impacted, would really be for not current retirees but for new people coming into the system and now 25, 30 years later when they're ready to retire.

SENATOR SEWARD: I know we have that related question, we have that income-related monthly adjustment, the so-called IRMAA.

ACTING COMMISSIONER BRABHAM: IRMAA, yes.

SENATOR SEWARD: You know, we got the Medicare Part B costs, the IRMAA Medicare payments. Do you know how many current retirees would be impacted by the state's discontinuation of IRMAA?

ACTING COMMISSIONER BRABHAM: Last year we paid about 9,000 IRMAA reimbursements.

SENATOR SEWARD: So about 9,000 would be impacted.

ACTING COMMISSIONER BRABHAM: Nine
thousand retirees, yes.

SENATOR SEWARD: Right. Right.

Let's switch to the discussion on salary protections for state employees that make that lateral move. The language refers to provisional and temporary employees. What is the difference between those two, a provisional and temporary employee?

ACTING COMMISSIONER BRABHAM: So a provisional employee, as I stated earlier, for state purposes is someone who is not permanently appointed to a competitive title.

SENATOR SEWARD: And what about a temporary employee?

ACTING COMMISSIONER BRABHAM: A temporary employee could be someone who is not a permanent state employee, they've been hired on a temporary basis. We do have temporary project jobs where there are sometimes individuals who are not -- temporary project jobs are open to current state employees, but it could also be filled with a person who's not a current state employee. And it's temporary in nature, in
that it is only authorized for up to 18
months.

SENATOR SEWARD: Okay. But they could
make a lateral move and still receive salary?

ACTING COMMISSIONER BRABHAM: No, it
would not apply to those individuals.

Again, this proposal only applies to
individuals who are in competitive titles
that have been reallocated to a better salary
level.

SENATOR SEWARD: Okay. Are there any
provisions for the length of time an employee
must serve in a provisional position before
receiving this benefit in the plan? Or can
that happen day one or day two?

ACTING COMMISSIONER BRABHAM: When you
say this benefit, if you're referring to the
salary protection, again, we're talking about
individuals who have been reallocated in
their position. So it doesn't -- I'm sorry,
I'm not understanding your question about the
length of time. You mean length of time
before they can move to another position?

SENATOR SEWARD: Of service, of state
ACTING COMMISSIONER BRABHAM: No. No.

SENATOR SEWARD: Okay. How often are positions reclassified and downgraded so these protections would be necessary?

ACTING COMMISSIONER BRABHAM: So right now we're going through a period of looking at all of the titles that the state has. Right? Because I think when -- in 2015, say, the state had 3500 different titles and some of them did similar kinds of work. Right?

So we looked at the clerk titles. We might have file clerks, calculation clerks -- you know, everything that falls kind of in that bucket.

And so we take a look at that to see if -- what duties people were performing and if it was similar work. Again, with an eye towards equal pay for similar work.

And so we have undertaken the exercise of reducing the number of titles that there are in state government. So we've probably gone, at this point, from about 3500 down to 3,000.
SENATOR SEWARD: Thank you. My time is up.

CHAIRWOMAN KRUEGER: Thank you.

Assemblymember.

CHAIRWOMAN WEINSTEIN: Assemblyman Crespo.

ASSEMBLYMAN CRESPO: Hi.

ACTING COMMISSIONER BRABHAM: Hi.

ASSEMBLYMAN CRESPO: You and I have spoken in the past around diversity and the fact that our numbers in the state workforce do not make us very proud in terms of people of color working in various agencies and throughout the system.

Some of the ideas that have been shared in the past have been implemented, and I know that in part of your testimony you talk about the executive order as well as the executive Committee for Diversity and Inclusion and some of the ideas that have been put forward.

Could you elaborate a little bit more on what has been done to make this more accessible to people of color around the
state?

ACTING COMMISSIONER BRABHAM: Yes.

We've been doing a lot of work around this, you know, primarily implementing many if not all of the recommendations that came out of the 2016 advisory council, which you were a part of and were a great partner.

So, you know, let me start by saying that, you know, as you know entry to the state workforce is on a competitive basis.

Right? So 80 percent of the jobs, you have to come -- you have to take the test, score high enough on the test and be reachable in order to be hired into state government.

And so we continue to look at our tests, how we kind of publicize the opportunities to take the exams, where we give the tests. One of the big recommendations that came out of the advisory council was for Civil Service to do a better job of bringing testing to the community, as opposed to, you know, putting up the notice and waiting for people to discover it and sign up for the test.
And so in -- that was in 2016 that we were asked to do that. In 2017 when we gave the PCO exam, we went out to various communities and held the tests on SUNY campuses -- Bronx Community College, SUNY Albany, SUNY Old Westbury, and several other places. I think there were six campuses that we went to.

We’re about to give that test -- it's given every two years. We’re about to give that test again, in April or May of 2019, and we'll be doing that again.

Some of the other things, you know, that we're doing is looking at how to work with community organizations and better target our recruitment and hiring efforts.

ASSEMBLYMAN CRESPO: Is the test free?

ACTING COMMISSIONER BRABHAM: In certain instances the test is free. We also -- again, one of the recommendations of the council was do to a better job of highlighting the availability of fee waivers for the exams. And so we've, you know, moved that to the front page of the exam notice and
make it more noticeable.

So if an individual has a hardship, yes, they have the ability to apply for a waiver so that they don't have to pay for the exam.

ASSEMBLYMAN CRESPO: Do you know how much money has been raised from just the fees of the exam?

ACTING COMMISSIONER BRABHAM: I don't have that figure, but I could certainly get it for you.

ASSEMBLYMAN CRESPO: I would love to know. Because I think at some point -- I mean, it's -- applying for a waiver is one thing, but just making the test accessible from the onset, especially if it's given in neighborhoods where, you know, there's already a disadvantage in terms of, you know, from academic outcomes to a financial hardship that exists in those communities.

So I mean, look, we've had this conversation before around the fact that so many of the state agency jobs are located, let's say, here in the Capital Region and in
other areas. And I would hope that we could
do a lot more, more aggressively in regards
to this, whether it's more radical thinking,
like moving some agency operations to those
neighborhoods where we could fill those jobs
more easily, or providing additional
assistance and guidance to families who would
choose to relocate to where the jobs are.
That's something that we need to do a better
job.

I mean, at this point I would ask you
the numbers, but I don't even want to go down
that road. I think that we have a long way
to go. I know that your heart is in the
right place and the agency wants to do the
right thing, but we should more aggressively
look at the recommendations that were done in
2016, or new ideas.

You know, the testing venues and using
technology is great, but I don't think that
we're depending on the resources raised from
the fees. So at the very least, we should
look at eliminating those altogether and just
making the tests accessible, particularly in
those communities that fill the gaps that are not represented in the state workforce. And I'm talking about African-Americans, Asians, Latinos and others. So -- really want to do more work in that area.

ACTING COMMISSIONER BRABHAM: Sure.

ASSEMBLYMAN CRESPO: Thank you.

ACTING COMMISSIONER BRABHAM: Thank you.

CHAIRWOMAN WEINSTEIN: Senate?

CHAIRWOMAN KRUEGER: Senator Diane Savino.

SENATOR SAVINO: Thank you.

Thank you, Commissioner, for your testimony.

I want to go back to the issue of the provisional reduction plan. It's now 12 years after the Long Beach decision.

ACTING COMMISSIONER BRABHAM: Yes.

SENATOR SAVINO: And I think we -- the Legislature last extended the authority to update the plan or to continue on the plan -- it was supposed to be completed by 2018. So if you can just give me a brief idea where we
are with provisional reduction, how many we
still have left -- and most importantly, the
level of cooperation among the municipalities
and counties to implement the provisional
reduction plan.

ACTING COMMISSIONER BRABHAM: Right.

Thank you. Because I was going to clarify
that the provisional reduction is not for the
state, it's actually for New York City.

SENATOR SAVINO: Right. Mm-hmm.

ACTING COMMISSIONER BRABHAM: And yes,
we've been working with New York City for a
number of years, and --

SENATOR SAVINO: Twelve.

ACTING COMMISSIONER BRABHAM: Yes.

And the number of provisionals has
fluctuated. You know, they've made some
progress in some years, and then the number
has gone back up in other years.

So a couple of years ago I think, you
know, we kind of stepped up our approach to
oversight, if you will. And, you know,
rather than just having the city report to
us, you know, kind of what their numbers
were, we actually started working with them
to analyze where they were giving exams and
in what titles and if they were specifically
targeting the titles that had the larger
number of the provisional employees.

And we've been doing that for a couple
of years now, and the number continues to
come down. I think that at some point they
were around 12 percent in terms of, you know,
what percentage of the workforce the
provisionals accounted for. And I know that
that number has come down. I think it's
somewhere around 9 or 10 right now, but I can
certainly clarify that for you.

So we do continue to work with them.

They do provide us a report on a quarterly
basis. They come to Albany on a regular
basis to meet with us, you know, to have a
face-to-face meeting with the Civil Service
Commission, members of the Civil Service
Commission to give an update on their
progress. And we provide feedback on how,
you know, certain titles we think that they
should be looking at.
SENATOR SAVINO: That's good. Because

as -- what people may not be aware of, if you

have provisionals in place for nine months,

it's supposed to trigger the scheduling of an

exam.

ACTING COMMISSIONER BRABHAM: Correct.

SENATOR SAVINO: And I know in the

past, under the prior administration in the

city, the focus seemed to be on reclassifying

competitive class positions to the

noncompetitive class to avoid the whole issue

of this. But quite honestly, that puts

workers -- provisional workers are already in

a precarious position in the event of a

layoff, and an even more precarious one if

you convert their titles to noncompetitive,

because noncompetitive employees, as you

know, don't get due process rights until they

have five years of service, which is a much

bigger problem.

And so we -- I know Assemblyman Abbate

and myself, when I chaired the committee, we

fought back against that. So I just hope

that the city is not continuing to go down
that road, because that really would be problematic for people.

ACTING COMMISSIONER BRABHAM: Yes.

Agreed.

SENATOR SAVINO: Oh, one question -- I asked Commissioner Reardon about it. So again, technology is changing the workforce, and a lot of positions that used to -- when I came in to work for the city as a caseworker almost 28 years ago, we had unit clerks, we had typists, we had clerical administrative staff. All of those functions have been replaced by technology. But those were entry-level jobs for a lot of people, particularly women in the City of New York, and they've disappeared.

So I'm curious, like is Civil Service looking at ways to create entry-level spots for people coming into government, those who want to get into the public service -- but in jobs that no longer exist, what can we do to create new opportunities in either the state workforce or in municipal and county governments?
ACTING COMMISSIONER BRABHAM: I think the good news is that the types of jobs that you're talking about that are disappearing other places do still exist within the state workforce, and we continue to -- and it continues to be the entryway for people to come into state government.

I think the question, though, is really kind of around training and the availability of training and how decisions are made about what kind of training we're going to offer and who has access to it. And that's something that we're looking at now, is one of the things that we're going to be talking to state agencies about under kind of the new responsibility that we've been invested with around diversity and inclusion, because of course we know that that's not just about race and ethnicity, it's about the entire state workforce, whether it be veterans, women, upward mobility, career mobility and all of that.

And so we're going to be working with state agencies to kind of dig into, you know,
what are we doing to prepare our workforce
for the jobs of tomorrow. Right? So it's
not just about the testing, it's about the
training that they are able to avail
themselves of. It's about -- and thank
goodness, you know, we have the tuition
reimbursement programs and all of that, that
allow individuals to go out and get training
and get education and we reimburse -- we, as
in GOER, reimburse the costs of that.
So we're going to be looking more
widely at all of these issues and really kind
of how they fall under the umbrella of, you
know, not only diversity but also inclusion,
women in the workforce, a lot of the things
that we've been talking about.
SENATOR SAVINO: Thank you.
CHAIRWOMAN KRUEGER: Thank you.
Assembly.
CHAIRWOMAN WEINSTEIN: Assemblywoman
Diana Richardson.
ASSEMBLYWOMAN RICHARDSON: Good
afternoon.
ACTING COMMISSIONER BRABHAM: Good
afternoon.

ASSEMBLYWOMAN RICHARDSON: And thank you so much for your testimony.

I wanted to echo the sentiments of Assemblymember Crespo in terms of diversity and just for the need for us to further do some work in that particular area.

You also got my question about the fees of the exam. So if we can get the amount that is generated from that, we would really love it.

I would like to just say that I am happy to see you doing the testing of the Professional Career Opportunities Exam. I know that's going to help a lot of college graduates. We may want to try to waive that for them as well, knowing that they're saddled with debt and broke. Just think about it. Or at least a scale on time -- you know, some sort of fee scale.

But question. Question, question, question. This institute that was recently launched, the Civil Service Institute, is it connected to a college or institution?
ACTING COMMISSIONER BRABHAM: It's not connected to a college or institution. It's actually run by my department. You know, as you know, we have oversight responsibility for civil service administration as it pertains to local governments and also to the state agencies. And so we -- the subject matter experts within my department actually put together the curriculum for that training and participate in delivering the training.

ASSEMBLYWOMAN RICHARDSON: So it's not like an accredited thing, it's like an internal training?

ACTING COMMISSIONER BRABHAM: It's an internal training program for employees, yes.

ASSEMBLYWOMAN RICHARDSON: And how is one selected to participate? Just asking.

ACTING COMMISSIONER BRABHAM: I think it depends on what the training is. Some of the training you can just request to attend the training and get permission for your agency to attend.

Other of the training is geared towards individuals who work or are
participating in traineeships in the personnel arena, in the HR arena. Because we think it's important to make sure that everyone is trained consistently and are applying the rules and regulations and the statutes in a consistent way.

ASSEMBLYWOMAN RICHARDSON: Just going back into that diversity committee, who's the members that are on it? Because I see it was launched in September '18, and I'm here on the website but I can't find a list of the members that are on the committee.

ACTING COMMISSIONER BRABHAM: So there's a few things there. So I think what you're -- did you say August '18? So you're referring to --

ASSEMBLYWOMAN RICHARDSON: No, September. The creation of the Executive Committee for Diversity. That, going back to that, who's on the committee?

ACTING COMMISSIONER BRABHAM: Yes. Okay. So we're -- the Executive Committee for Diversity and Inclusion is comprised of cabinet members. I'm on the committee. I
believe the commissioner of the Department of Labor is on the committee. The state's Chief Diversity Officer. The Secretary of State.
The Secretary to the Governor, I believe.
And there may be a couple of people that I missed.

ASSEMBLYWOMAN RICHARDSON: Okay.

Thank you.

ACTING COMMISSIONER BRABHAM: You're welcome.

CHAIRWOMAN KRUEGER: Thank you.

Senator Bob Antonacci, who arrived late, so he gets two minutes.

(Laughter.)

SENATOR ANTONACCI: Wow. Thank you very much. I'll make it quick, I guess we're at the end of our day.

I was the former Onondaga County comptroller. I sent an audit to your office back in October of 2017. To the best of my knowledge, that audit was never examined or looked at by your office. I'm going to send you another copy, even though I'm not the comptroller anymore, because I found what I
believe to have been serious problems in our personnel issues with, you know, as they call it, double fills, temporary and provisional appointments, application of the Rule of Three, and creation of new positions.

Do you have any corporate philosophy or regulations on how you handle complaints from local municipalities on issues regarding the hiring and firing of employees?

ACTING COMMISSIONER BRABHAM: Well, if there are -- well, we don't have oversight of the hiring or firing of employees for local government. However, if some malfeasance was brought to our attention, it is something that we would look into. But we do not have oversight over that.

SENATOR ANTONACCI: So you don't have any direct oversight of a local personnel director.

ACTING COMMISSIONER BRABHAM: Hiring or firing -- no, we don't.

SENATOR ANTONACCI: Okay, what about the application of any of the civil service rules, though?
ACTING COMMISSIONER BRABHAM:

Application of civil service rules, yes.

SENATOR ANTONACCI: Okay. Well then

like I said, I'll get you another copy of

that letter. I'm sure it's been a while.

But, you know, as the local comptroller, we

believed that it was important to notify you

of our findings, you and State Comptroller

DiNapoli. So I'll take another shot at that.

Thank you.

ACTING COMMISSIONER BRABHAM: Thank

you, Senator.

CHAIRWOMAN KRUEGER: Thank you. I

believe we are complete with you tonight.

Thank you very much --

ACTING COMMISSIONER BRABHAM: Thank

you.

CHAIRWOMAN KRUEGER: Oh, excuse me.

Senator Seward had one more question.

SENATOR SEWARD: Yes, actually two,

but we'll make it very, very quick.

I wanted to return to the salary

protection proposal just for a little more

clarification there. Could you tell us --
you mention the number of I guess job titles
and so on, you went from 3500 down to 3,000,
if I heard you correctly.

ACTING COMMISSIONER BRABHAM: Yes.

SENATOR SEWARD: How many provisional and temporary employees did that impact?

ACTING COMMISSIONER BRABHAM: Again, the salary protection proposal deals with competitive employees who are in that job on a permanent basis. So I'm not exactly sure if there were -- the number of provisions that would, if any, that would have been included in that. But we'd be happy to take a look at it and provide you with that information.

SENATOR SEWARD: Okay. Does this proposal -- would you think that this would create some inequity among employees performing, you know, similar duties? Or is it just the opposite?

ACTING COMMISSIONER BRABHAM: No, I think it does just the opposite.

SENATOR SEWARD: Okay. My final question is, do you have any information or
feeling or knowledge about how the phase-in
of the minimum wage increases have impacted
the state workforce to date? And the local
government workforce.

ACTING COMMISSIONER BRABHAM: I can't
speak for the local government workforce.
But I do know that it impacted very few state
employees, as most individuals were already
making above the minimum wage. And for those
who were impacted, that has been addressed
and those wages were raised. Several years
ago. A couple of years ago.

SENATOR SEWARD: Yeah, thank you.
CHAIRWOMAN KRUEGER: Thank you.
Now, just making sure -- thank you
very much for your attendance with us today.
Appreciate it.
And the next testifier is Michael
Volforte, for the New York State Governor's
Office of Employee Relations.

GOER DIR. VOLFORTE: Good evening.
I'll have to correct my testimony since it
says "afternoon." That's all right; it's
been a longer day for you all.

CHAIRWOMAN KRUEGER: It's still close.

It's still sort of afternoon.

GOER DIR. VOLFORTE: Kind of.

Chairs Weinstein and Krueger and

honorable members of the Assembly and Senate,

good evening. My name is Michael Volforte,

and I serve as the director of the Governor's

Office of Employee Relations. Thank you for

the opportunity to address you on Governor

Cuomo's Executive Budget proposal for the

upcoming fiscal year as it pertains to the

state workforce and my office.

During the past year, the state

reached collective bargaining agreements with

several unions that represent executive

branch employees. Agreements were reached

with four unions that represent approximately

60,000 employees.

All of the agreements continue to

strike the balance championed by the

Governor, fairly compensating our proud and

valued public workforce, with pay increases

in each year of each agreement, while
maintaining fiscal discipline. These agreements include changes in enhancement to benefits like health insurance and ensure that state agencies are able to deliver the services that they need.

As part of these negotiations, we also reached a number of agreements on implementing paid family leave and have recently rolled out the Paid Family Leave program for approximately 35,000 employees represented by United University Professions.

We offer many other benefits to our workforce. These include pre-tax contribution programs for unreimbursed healthcare expenses, dependent care expenses, transportation expenses, and a new program for adoption expenses. We work closely with our partners in labor to provide these high-quality benefit programs and many others.

For example, through our labor-management Work-Life Services program, we are able to serve employees through our Employee Assistance Program, pre-retirement
planning seminars, wellness services and
state worksite daycare programs.

We continue to build upon Governor
Cuomo's commitment to the professional
development of the workforce. We have
statewide mandatory training programs for all
staff designed to protect the workforce,
advise them of their rights and
responsibilities under law and polices, and
ensure access to government services by the
public, including a newly redesigned training
on ethics. We have also continued to
reinforce leadership skills, supervisory
skills, interpersonal relations, and the core
job skills needed by our workforce to assist
the public.

Through these professional development
and benefits programs, we are able to serve
tens of thousands of state employees with
workforce benefits or development
opportunities so that they can move forward
in their careers.

In December, pursuant to Executive
Order No. 187, my office assumed
1 responsibility for independently
2 investigating complaints of protected-class
3 employment discrimination and harassment in
4 executive branch agencies. With a team of
5 investigators and lawyers, we are actively
6 investigating complaints of discrimination
7 and harassment in order to ensure that all
8 allegations are investigated, individuals are
9 advised of the result of that investigation,
10 and appropriate action is taken in a timely
11 manner by anyone found to have violated
12 policy.
13
14 Over the past year, the core of
15 organized labor has been threatened by an
16 anti-labor movement, reflected in the Supreme
17 Court's Janus decision. The state has stood
18 up to this movement and passed protections
19 for public-sector unions in the Civil Service
20 Law.
21
22 The Governor also protected the
23 personal information of state employees from
24 anti-union forces through Executive Order No.
25 183. In this year's budget, the Governor
26 plans to codify and expand that protection
for all public employees in New York State to aid in the fight against these anti-union forces. The Governor's proposal protects this information by making it an improper practice charge under the Taylor Law to disclose personal contact information of any public employee except as required by law.

The Governor's budget proposal also guarantees that unions have the right to receive basic information on the employees they represent so that they can effectively represent those individuals in a bargaining unit. The law further requires public employers to provide this information, upon request, at least quarterly to the unions who request it.

We will continue to take commonsense action to do all that's needed to ensure that our partners in labor are protected from attacks.

As we turn the page to the next fiscal year, the state's overall workforce remains stable, as it has for a number of years.

There are no layoffs proposed in the
Governor's budget. My office will continue to focus on negotiating the outstanding collective bargaining agreements that we have and to bring them to conclusion. We will also implement recently negotiated agreements and expand the development and education opportunities for the state workforce in order to enhance their skills and deliver the services needed to the public.

Over the next year, we will continue our tradition of collaboration with the unions in areas like health benefit design and protecting the safety and security of the workforce. We will continue to negotiate new agreements, and I am confident that we will reach agreements that recognize the valuable contributions of those in organized labor but also ensure our ability to meet the needs of the public which we all serve.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Senator Andrew Gounardes.

SENATOR GOUNARDES: Thank you,
I want to return to a subject that was discussed two speakers ago with the Commissioner of Labor about salary history. And obviously Executive Order 161 puts your office in charge of ensuring compliance with the executive order. And I just want to know how monitoring compliance is going with that, have we seen any cases where agencies or offices have not been in compliance with the policy? Just give us an update on where we stand with that.

GOER DIR. VOLFORTE: We've seen no issues of noncompliance since we rolled out the executive order. The executive order's been rolled out for some time; all the agencies were trained by me personally. We maintain regular contact with the Department of Civil Service and with the Governor's appointments office to ensure that any cases that might result in a question under the executive order are answered by my office personally.

So we've had no implementation issues.

SENATOR GOUNARDES: And is there
anything for employees to kind of file complaints proactively as it relates to asking for a salary history, or is it more just checking in with supervisors and other agency heads on your end?

GOER DIR. VOLFORTE: If any employee feels that the executive order is violated, they can complain directly to GOER.

SENATOR GOUNARDES: Okay. And is there a formalized process for that, or is that just file a complaint, send an email? What's the -- walk me through that, if you can.

GOER DIR. VOLFORTE: Email, phone, letter, however an employee would choose to complain, we'll investigate and respond to any form of communication. But we don't have an established form or format that an employee needs to complain in.

SENATOR GOUNARDES: And are there any other cases and other types of compliance where you do have formalized processes to receive complaints from employees that --

GOER DIR. VOLFORTE: Under Executive
Order No. 187 we have a formalized complaint process, including a formal complaint form for cases of discrimination or harassment in state agencies.

SENATOR GOUNARDES: Okay, thank you. I'm really interested in the idea of the health and wellness of our workforce, and that's a very broad, you know, area to kind of think about. So I want to just hone in on a couple of things.

You know, I read a study not too long ago about -- that was done with federal employees about the positive benefits of flexible scheduling and also telecommuting for federal employees. And so have we looked at, have you looked at the viability of four-day workweeks, increased telecommuting options in state service? What's been the thought or the action around that so far?

GOER DIR. VOLFORTE: The state's been doing telecommuting and flexible work for over 30 years. We have telecommuting arrangements that are embodied in at least one collective bargaining agreement, and it
remains with the agency to determine that it
works for them and then they work things out
in a cooperative manner with the unions that
represent the employees that work in that
agency.

We also have programs -- it's
nicknamed VRWS, voluntary reduction in work
schedule. It allows employees to accept
slightly less pay for more time off or a
reduced work schedule. And those are also
worked out at the agency level. And we're
always looking at other various things that
might work for both agencies and the
workforce, and those are typically worked out
on an agency-by-agency basis.

SENIOR GOUNARDES: How many agencies
are employing these -- you know, either
telecommuting or the reduced workload
scheduling? Do you have a sense of that? I
know not every agency is doing it, right? So
can you just give us a sense --

GOER DIR. VOLFORT: I don't have that
information available to me, but I think it
would probably be more than half of the state
SENATOR GOUNARDES: Okay. And are there any roadblocks or hiccups in trying to get everyone to kind of get on board with that, or are there any logistical challenges or issues that we should be aware of in terms of making that more readily available?

GOER DIR. VOLForte: Sure. There will -- not every schedule and every workforce is the same. For instance, a reduced workweek for the Department of Corrections in prisons might not work, so you would have a large segment of the population where they would typically run their current schedule without probably consideration from either side about adapting that schedule.

So we'd really have to look at the workforce either on an agency-by-agency basis or even a title-by-title basis to see if those things could work. But the seminal question is does it first work for the agency to deliver the services to the public, and then if it does then those discussions can
SENATOR GOUNARDES: And have you done any studies on a global level across all agencies to look at the viability -- notwithstanding, you know, the issues you just raised about four-day workweeks and four-day scheduling and, you know, staggering workload schedules to make sure that agencies have the manpower they need but also making sure that employees have the benefits of four-day workweeks?

GOER DIR. VOLForte: We haven't done any studies. But as part of those flexible work arrangements, there are things called compressed workweeks where some agencies do have employees who work nine out of 10 days with a day off or four out of five each week with a day off each week. So those arrangements do work, but we've not done a formalized study across all the agencies.

SENATOR GOUNARDES: Is that something that you'd be willing to kind of pursue to kind of examine whether or not we can be
providing this benefit for our workers? Is that something that you could possibly entertain moving forward?

GOER DIR. VOLFORTE: We'd be -- we would certainly participate in looking at anything along those lines and certainly it would probably be an area where we'd partner with the Department of Civil Service, as I know they have some authority and a report that they've been working on --

SENATOR GOUNARDES: Of course.

GOER DIR. VOLFORTE: -- so I think it would have to be part and parcel of that.

SENATOR GOUNARDES: And going back to your earlier answer about the compressed workweeks, do you have an idea of which agencies are using compressed workweeks, which are not? I mean, I'm just trying to get a sense as to who is or who is not -- you know, what agency do we need to be following up with on our end to make sure that they are proactively looking at these issues?

GOER DIR. VOLFORTE: I don't have anything specific where I can go agency by
agency. But I can generalize. If you look at an agency that's traditionally administrative in function or has a large administrative function, where they tend to be more of the historical Monday through Friday, 9:00 to 5:00 type position, that would be an agency that would be far more likely to be engaged in an alternate work schedule than maybe a -- certain law enforcement agencies. Although we do have law enforcement agencies like the division of State Police that has the majority of its road troopers on 12-hour schedules where they work a certain number of 12-hour days, have days off, and that rotates through a 28-day cycle.

SENATOR GOUNARDES: Yeah, I'd love to follow up with you after these questions if I can get a list so just so we can start looking at it from an agency-by-agency perspective. You know, just understanding that there are challenges and this is not a one-size-fits-all policy, the benefits of some of these things, like a four-day
workweek, really are not just because they're
tasks that are more easily done than others,
some of the benefits are mental health,
psychological health, emotional health and
wellness. So some of our more stressful jobs
like corrections, like law enforcement in
some cases could benefit from not having
someone dealing under high-stakes and
high-pressure situations on a constant
schedule. And we may see some of the bigger
benefits and largest benefits in some of
those areas.

So just because an area might be more
difficult doesn't mean that it's not
something that we should be still looking at
to make sure that we are giving everyone the
healthy outlets they need and not putting
undue stress and burden on our workforce at
all levels and regardless of what jobs they
perform in.

The last thing I kind of want to ask,
if you can just give us a sense as to what
other -- aside from, you know, timing issues
and scheduling issues and things like that,
what other types of programs are we looking to encourage and promote, proactively, health and wellness of our workers, of our workforce here in the state?

GOER DIR. VOLFORTE: Well, we have a large Labor-Management Committee which is a jointly funded effort between the state and all of the unions that looks into a lot of these areas. So we look at things like pre-tax benefits that I mentioned earlier. We also look at just general information programs. We offer an Employee Assistance Program that not only helps employees in stressful situations and dispatches people when there's crises so there's crisis intervention, but they offer just generalized information to employees who have issues -- you know, maybe an employee is struggling with a dependent that they need to find care for and they can get information on types of providers they can contact that can be provided through our AEAP program. We also offer a wellness program, which is more of the traditional get up
moving, be healthy type programs where
employees are given information on a weekly,
monthly, yearly basis, and we encourage
things like an Olympiad where people
participate on paper and do healthy
activities for a certain period of time --
normally during an Olympics -- where they're
pushing themselves in physical nature either,
you know, on lunch breaks or outside of work
to encourage healthy principles and healthy
actions.

SENATOR GOUNARDES: So let me ask -- I
have just a few seconds left -- and you may
or may not be the right person to ask this
question to, but it's in the same vein.
Something as simple as the choices of the
things that we put in a vending machine in
any agency office, right, that has a big
impact on what we're doing for people's
health and wellness in a very physical way.

Are you -- if you are the right
office, or if not, please tell me -- looking
at those types of things, kind of at the
microscopic level, what are we doing on a day
by day, piece by piece thing to make sure
that we are providing the healthiest
environment for our workers?

GOER DIR. VOLFORTE: That wouldn't be
my office.

SENATOR GOUNARDES: Okay. Who would I
ask that question to?

GOER DIR. VOLFORTE: I think those
type of decisions would probably be made on
an agency-by-agency basis. But perhaps maybe
OGS has some contracting parameters that go
with that.

SENATOR GOUNARDES: Fair enough.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Diane Savino, you had a question?

SENATOR SAVINO: Yes, thank you.

Thank you, Commissioner. So I'm not
going to torture you like I did last year on
the salary history thing. We disagree on the
value of it.

I do want to make one point, though.

The entire state workforce, every public
employee's salary history is available on the
internet, public record, through
SeeThroughNY. So perhaps we should reexamine that idea. Because we're not protecting anybody who works in government right now from having a potential future employer find out what their salary was.

But moving on, I noticed -- you guys have actually done a really good job on some of your labor relations efforts, and I want to commend you for that, including trying to figure out how to expand paid family leave to the state's workforce. I'm not sure if you followed -- the city got into a very contentious argument with the teachers union over it, and I didn't quite understand that.

But in the Governor's budget -- you may not be able to speak to this, but you might want to think about it -- somewhere in the tax bill he has a proposal for the creation of a New York State Employer Provided Childcare Credit. It would create a childcare credit equal up to 100 percent of the federal credit for employers who provide child and dependent care facilities to their
employees. Which I think is a wonderful idea. We should be incentivizing employers to provide childcare. But is there any possibility of the state providing that same type of benefit to its own workforce? Because as we know, we have a workforce many of whom are parents, childcare takes up a disproportionate amount of their income and a lot of their time. It's one of the reasons why you have flex time in agencies, to allow later start times to accommodate parents of small children. So is there any possibility that the state would include this in their negotiations or attempt to provide a better benefit, including childcare.

GOER DIR. VOLForte: Well, I'd have to look at that specific benefit. But we do offer a current dependent care benefit. So it is a pretax program, and we actually have a sliding scale employer contribution anywhere from $300 to $800, depending on the salary level. And as long as those expenses of dependent care, which can include children
and adult dependent care, qualify under federal law, they can use that money to pay for that on a pretax basis, thereby getting some tax benefit. So we don't have that specific credit program, but we do have a program that we offer across bargaining unit lines.

SENATOR SAVINO: I think we should look at it, because it would be somewhat ironic if we were giving a credit to private-sector employers to provide free daycare services for their workforce and we're not doing the same thing for our own workforce. So perhaps we should look into that.

GOER DIR. VOLForte: And the other thing that we do, and it's spread out among 25-plus sites across the state, is we do underwrite daycare facilities that have daycare facilities on state worksites. And my office helps provide a guidance and oversight role for those sites. And that's done and has been done for many, many years on a cooperative basis with all the unions.
SENATOR SAVINO: And finally, you mentioned the work that's been done with respect to trying to counteract the Janus decision. We were very happy last year to see the Governor take the language that was in a bill that I was the co-prime sponsor on and implement it.

And so the one question I have is, do we have a sense of how many workers have decided to stop paying dues? And are we sharing the information as people are coming into the workforce with the relevant unions? Are we notifying unions when their workers are dropping out or they're not contributing to dues anymore so they can attempt to reengage them?

GOER DIR. VOLFORT: We're involved on the front end in making sure all the agencies are complying with the law and providing the information that they need to provide. And we believe that agencies are providing that. When there's a question, we come in and we make sure we look at it. I don't have a sense as to how many employees were lost in
terms of post-Janus. I think the unions
might have a better handle on that. I know a
number of them worked on Janus before it was
Janus and stemmed the tide of losing that, so
I think that their numbers were much lower, I
think, than anybody expected, but I don't
have that number.

And on the back end, they get reports
from the state at least as to who is a
dues-paying member and they have membership
lists of their bargaining unit. So as a
cross-reference between those two, they can
figure out who is a dues-paying member and
who is not.

SENATOR SAVINO: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Is there any Assembly?

I just have one question for you,
then. Thank you.

GOER DIR. VOLForte: Certainly.

CHAIRWOMAN KRUEGER: So I believe that
Assemblymember Crespo asked earlier about --
of Commissioner Reardon -- how the state was
handling ensuring everybody had training in
sexual harassment. At least about six to
eight months ago there were newspaper stories
saying that state workers were being directed
to your agency when they had sexual
harassment complaints, and I believe were
told once they got there, No, this isn't the
right place for you.
So can you just let me know, if I'm a
state worker and I believe I'm being sexually
harassed on the job, where am I supposed to
go?
GOER DIR. VOLFORTE: If you are a
state employee and you feel you're being
sexually harassed on the job -- and this is
for agencies controlled by the Executive. So
there are a couple of agencies that are not
that have their own procedures.
CHAIRWOMAN KRUEGER: Correct.
GOER DIR. VOLFORTE: But if you're in
an agency you can go in a number of manners.
In a number of the agencies we've located
actual investigators on-site and those
employees could go to those individuals and
file an in-person complaint.
They can go to the GOER website. If you went there tonight, you'd see a button and it says file a complaint, and there's an online fillable form. You can fill it out online, you can email it, it goes directly to GOER. It doesn't go through an agency.

You can certainly take that complaint form and fill it out on your own, mail it, email it to us. You can give it to your employing agency. Those agencies have all been told that those complaints need to come to GOER. Certainly we prefer a direct complaint to GOER, because it's far easier to track and far easier to take quicker action on.

All the agencies have been specifically instructed by my office to make sure that on their internets -- or if they don't have an internet, other sites, like handbooks, to post how employees complain and they post a manual that shows them their rights and responsibilities as employees under the law and the protections they have.

And they're told to distribute that on a
monthly basis. So every month, we're trying
to make sure the agencies are pumping out
that information to employees.

And I think that there was -- so they
come to us on questions. But, you know, on
occasion we do get a question from the
general public on sexual harassment, and
those questions have been referred to either
Human Rights or the Department of Labor,
because I think that's appropriate because
we're not administering that from that. So
we've gotten a couple of questions from time
to time on just the general implementation,
and those have been referred back to DOL, who
I think is the appropriate agency.

CHAIRWOMAN KRUEGER: So people who
work for Executive agencies, so there are
many different pathways, but they all lead to
GOER.

GOER DIR. VOLForte: Correct.

CHAIRWOMAN KRUEGER: And what do you
do then?

GOER DIR. VOLForte: We assign a GOER
employee investigator, and that investigator
investigates the complaint and reaches a conclusion as to what happens on the facts of the case. The case is then concluded, and then a conclusion is reached as to whether it's a violation of policy or not. And if it's found to be a violation of policy, we work with the agency and instruct the agency to take corrective action in that particular case, and that's really going to depend on what a particular finding is. And that applies to all forms of discrimination, not just sexual harassment.

CHAIRWOMAN KRUEGER: And do you keep statistics -- I'm not asking for names of people, but statistics on how many cases you get and what the resolution is?

GOER DIR. VOLForte: We've only had the official internal oversight since December, so I don't have any stats for you. But we have a record of all the cases we get and, when they are resolved, we'll have a record of when they're resolved.

CHAIRWOMAN KRUEGER: Thank you. I think that was it for you tonight. Thank you
very much.

GOER DIR. VOLForte: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

And our next testifier is -- I heard that cackle, Fran.

(Laughter.)

MS. TURNER: What was that?

CHAIRWOMAN KRUEGER: I said, I heard you cackle.

Gee, it's Fran Turner, director of legislative and political action,
Civil Service Employees Association Local 1000. Good evening.

MS. TURNER: Good evening. Good to see you all again.

Before I respond to some of the comments I heard today, I do want to talk about some of our biggest issues, and it has to do with the wellness and health of some of our workers. And while the world of work is changing for a lot of people, for our direct care workers in the Office for People With Development Disabilities, in the Office of Mental Health, it's not changing at all.
As a matter of fact, for the first time ever that I can remember -- and I've been around for a while -- we are facing a true recruitment and retention problem in OPWDD. While our normal attrition rate for the state workforce is probably 4 to 5 percent each year, in OPWDD our attrition is up to 12 percent. But more importantly, in the last year we are experiencing a 25 percent turnover of new recruits in the first year.

Now, on top of this, we're already doing hours and hours of overtime. So while our members would love a flex schedule, they're actually working six days a week, 12 hours a day, if not more -- because you go to work and you don't know when you're going to come home.

So there has been a true lack of workforce development for these workers and a true lack of looking at a career path for them and offering them steps to improve themselves. And we have -- well, they couldn't take advantage of any opportunities
for education because they don't have the
time. Unless we're going to let them have
time at work to improve their skills and set
up a career path for them, it's impossible
for them. They're having a hard enough time
balancing their home life with their work
life that is getting in the way. It's just
not working.

And I think there's a number of
reasons for why we can't recruit and retain.
And, you know, other jobs that had raised the
minimum wage may become more attractive to
workers because we don't have the Justice
Center, worried about whether I'm ever going
work in this industry again. Right? And we
don't have going to work in the morning not
knowing when we're going to come home at
night, and we have children in daycare and we
have all those problems that everyone has,
and no opportunities for career advancement.

So we just go to work every day. And
it's not fun. It's a tough job that a lot of
us wouldn't do. I couldn't do it, I know
that.
And, you know, there's so much opportunity that we could look at. In OMH, we have a -- and OPWDD -- we are experiencing a very big shortage in LPNs, and we have to have LPNs in order to be certified for Medicaid purposes. So why don't we take some of these direct care workers and give them the path to become licensed practical nurses? So that we can move them up the ladder and help ourselves at the same time.

I am not going to say that salary is the biggest factor in why we can't recruit, but it is a factor. And obviously it's a factor for the people we represent in the not-for-profit industry too, because we do have not-for-profit OPWDD workers. But our state workers are starting at a salary of $15.54 -- that's the starting salary. So you're paying your pension costs on top of that. Our members pay for health insurance on a sliding scale, so they're paying for their health insurance as well. So we have not done anything to look at the industry as a whole to make it
attractive. And now for the state to sit back and say we're experiencing this big turnover rate, it is getting to the crisis mode, because someone still has to be available to take care of these clients. We owe it to these clients and to the citizens, our most vulnerable, that we're going to take care of them. And we're going to fail if we don't look at this, if we don't do some of the things to correct this.

So I ask that you work with us and it -- we don't have all the best ideas. We just know there has to be growth opportunities and there has to be an opportunity to make this easier for our members so that they can balance that home/work life and feel good about it, and feel like they're in a job that has true value.

So I do want to respond to some of the things that I did hear. And the health insurance for retirees, obviously it's very hard to ask people living on a fixed income to pay for more for their health insurance. As costs go up, their income is not really
going up.

But in response to what the retirees pay, if you retire under the current contract, you're paying in retirement what you paid as an active worker. And that continues, unless of course the state legislates otherwise for retirees.

On some of the other issues, temporary workers -- this is another failure of the state to look at long-term workforce development -- which, Senator Savino, you asked about usually every year. We have an overreliance on temporary workers, and we have a lot of temporary workers. And when we say -- when we talk about temporary workers, we're not talking about people who fill in for people on leave or people who fill in for people on workers' comp; we're talking about temp workers that have been classified as temporary or seasonal workers for years.

So last year we worked with the Governor's office and, believe it or not, in Parks and EnCon we actually converted -- that's what we called it -- converted almost
400 employees from temporary status to full-time status. We are hoping to move forward with our other state agencies where we find a lot of temp workers with the same conditions to do the same. But it's a misclassification. So what they do is they work them just long enough so that they're not full-time workers, so they don't get the full benefits of our contract, but they bring them back year after year after year. According to Civil Service, they shouldn't be allowed to do this. But I do want to caution --

CHAIRWOMAN KRUEGER: We're going to have to cut you off --

MS. TURNER: Okay. You're going to cut me off?

CHAIRWOMAN KRUEGER: You used up your 10 minutes --

MS. TURNER: Okay.

CHAIRWOMAN KRUEGER: Five minutes, sorry.

We've gone to a five-minute limit this year.
MS. TURNER: Okay. Cut me off.

CHAIRWOMAN KRUEGER: But we have lots of questions for you, though.

MS. TURNER: You do.

CHAIRWOMAN KRUEGER: So I think we'll get to the sections of your testimony you didn't.

Senator -- our chair.

SENATOR GOUNARDES: Okay. Thank you.

CHAIRWOMAN KRUEGER: Sorry.

SENATOR GOUNARDES: Thank you, Fran.

And thank you for responding to some of those earlier questions and comments.

There was a proposal in the budget, I think it was Part MM, that would eliminate the requirement that an open competitive exam be held at the same time that a promotional exam is held, which provides more opportunities for labor and noncompetitive-class employees to advance their careers.

Comment? Oppose, support?

MS. TURNER: You know what, we're still looking at it. I don't want to
comment.

But, you know, sometimes it's hard to
glean where exactly they're trying to go with
this. But some of our fear is cutting off
promotional opportunities for our current
workers.

SENATOR GOUNARDES: As you already
said. Yeah. Of course.

MS. TURNER: Yeah.

SENATOR GOUNARDES: And do you
think -- we talked about the Janus decision a
little bit, and the executive order last
year. Do you think that the current proposal
in Part E of the budget goes far enough? Or
should we be doing other things to kind of
help in response to the Janus decision?

MS. TURNER: You know what, I think
that Part E approached it in a very big -- a
very good way, because they made it an unfair
labor practice if an employer discloses our
personal information. And it's probably a
better way for them to address it.

As far as the second proposal in the
budget, it came from us, because we want to
know our bargaining unit members on a regular basis.

So we're very pleased with what's in the budget and what's been done so far. Believe me, if we could think of more things under Janus, we would definitely put those forward. But, you know, the Supreme Court has stymied what else we can do.

SENATOR GOUNARDES: Okay. And you have a minute 30 left, so I'll give you a -- I'll let you finish up what you didn't get to say.

Is there anything else that you haven't seen in the budget that you'd like us to be considering? At least right now.

MS. TURNER: Anything else?

SENATOR GOUNARDES: On my minute 30.

CHAIRWOMAN KRUEGER: No.

SENATOR GOUNARDES: I'm turning it over -- anything else that you think we should be looking at?

CHAIRWOMAN KRUEGER: No, that's not how we can do it. I'm sorry, Andrew.

SENATOR GOUNARDES: Not, no --
MS. TURNER: That's -- I could fill another 15 minutes with that --

SENATOR GOUNARDES: Not to finish your comments. My question is, is there anything that has not been brought up or addressed?

Let me rephrase it -- that you think we should be looking at as we're crafting the budget. Let me rephrase that.

MS. TURNER: All right. So I am worried about the AIM cuts, if that's what you're getting at, because we do represent 110,000 local government workers in every town and village across the state. And while it may not seem like a lot, to many -- for a small village or town, it does make a difference. So I guess --

SENATOR GOUNARDES: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

CHAIRWOMAN WEINSTEIN: I just had a quick question that concerns a number of us in Brooklyn. I was just wondering -- your take on the Governor's proposal relating to
eliminating the state operating subsidy for the SUNY hospitals. As far as I'm -- I'm really asking on behalf of Downstate, our Brooklyn residents and workers.

MS. TURNER: It seems like a fight we have to fight every year and especially in Brooklyn, Assemblywoman, because they didn't get part of the big Brooklyn $750 million, right? And they've been very unsteady and they treat a lot of underinsured, so they're not getting their fair share.

So we have to fight, and we will fight this year to get those subsidies back to the SUNY hospitals, and especially Brooklyn.

CHAIRWOMAN WEINSTEIN: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Senator Savino.

SENATOR SAVINO: Thank you. Thank you, Fran. Thank you for bringing up the issue of the human service disparity in terms of funding. If you were paying attention last week at the Human Service budget hearing, I raised that issue again. It is absolutely deplorable what we compensate
people for in the human service sector.

But I want to point out something else in the Governor's proposal. It's like, on one hand we did really good with the Janus stuff, and then on the other hand he's got some crazy proposal about publishing collective bargaining agreements prior to their ratification. What is the rationale behind that?

MS. TURNER: We've seen that before too. You know what? It's not good rationale, as far as we're concerned --

SENATOR SAVINO: Right.

MS. TURNER: We're very much opposed to it because our members should be able to vote on their contract before it goes public to the citizens. Right? And I don't know if he's -- I don't know what the impetus is behind it. I guess we'd have to ask him.

SENATOR SAVINO: I mean, generally --

MS. TURNER: I don't want to comment on what I think.

SENATOR SAVINO: Right. Generally when a contract is negotiated, you know,
you'll have some sort of a press release
announcing a deal has been reached --

MS. TURNER: Correct.

SENATOR SAVINO: -- between CSEA and
the Governor's office, and the top lines will
be out there, you know --

MS. TURNER: Right.

SENATOR SAVINO: -- without actually
publishing the contract. And I'm just -- I
mean, it just seems rather odd to me that we
would publish the whole thing. But what is
the intended purpose behind that? I wish I
had realized that while I had Mr. Volforte
sitting in the chair there.

MS. TURNER: I'll ask him for you.

(Laughter.)

SENATOR SAVINO: Crazy. Crazy.

And on retiree health insurance, I
totally agree with you. Because I realize,
as of today, I have 226 days before I
technically could retire.

MS. TURNER: There you go.

SENATOR SAVINO: I'm not going
anywhere, but I could.
Thanks.

CHAIRWOMAN WEINSTEIN: Assemblywoman Richardson.

ASSEMBLYWOMAN RICHARDSON: Good afternoon, Fran.

MS. TURNER: Good evening.

ASSEMBLYWOMAN RICHARDSON: Good evening.

(Laughter.)

ASSEMBLYWOMAN RICHARDSON: It's always a pleasure to see you. Let me just say thank you so much for the work that you do in terms of highlighting the issues within your industry and ensuring that your issues stay to the forefront of the Legislature.

You know, I have both SUNY Downstate, which is Brooklyn's baby anyway, as well as Kingsboro Psychiatric in my district, and so I 100 percent underscore your testimony and will be doing what I can do to fight to make sure that the money is where it should be.

So I was going to mention the funding about SUNY Downstate, but the chair did that, so thank you so much for putting that into
I wanted to hear from you directly a little bit more, because you referenced it and you also put it in your testimony, about what the interactions look like with the Justice Center.

I know. You know, when I'm out in the community and I'm speaking to the workers, it seems like morale is extremely low. When you talk about a 25 percent turnover in new recruits, what I'm hearing is that individuals are very afraid to even do their job, because the Justice Center seems to be overly reacting in certain circumstances -- I'm just throwing out what I heard, and then you tell me what's really going on.

And so at this point what we're seeing is a lot of people wanting to just leave the field in total because they don't want their license to be in jeopardy. Just go ahead, I'm going to give you the time to respond.

MS. TURNER: Well, we're hearing a lot of the same and experiencing a lot of the same.
I guess I would describe it this way.

You know, there were all good intentions when
the Justice Center came in, but now the
pendulum has swung too far to the point where
members are afraid to do their jobs. Right?
First of all, they don't have enough staff to
do their jobs, so they're scared. They are
scared that the Justice Center is going to
come in and say: You can't work in this
industry anymore, you're going to get put on
the list. Besides the fact that

investigations can last for nine months to a
year.

ASSEMBLYWOMAN RICHARDSON: Is the
person unpaid?

MS. TURNER: You could be out on
administrative leave --

ASSEMBLYWOMAN RICHARDSON: They're
unpaid? While there's an investigation?

MS. TURNER: Yeah. And it's --
it's -- the pendulum has swung too far. It's
gone to the point where if you give chocolate
milk to a client and it wasn't on his work
orders, then you can get in trouble for
give chocolate milk to the client. It's gone way too far.

And I think there is a tendency to over-report because people are afraid, because you can get in trouble for not reporting it as well.

So I think it has -- there are certain things that we can look at to help strengthen it and to really focus it where it needs to be focused on. Look, our members do not want anybody who is abusing or neglecting a client working side by side with them because, you know, that ruins it for everybody. So I think there are some things that we can look at within the legislation to tighten it up to those things that it was really intended to look at.

ASSEMBLYWOMAN RICHARDSON: Okay.

We'll follow up and have a side conversation, because we're out of time.

MS. TURNER: I will -- yes. That's great.

ASSEMBLYWOMAN RICHARDSON: Thank you.

CHAIRWOMAN KRUEGER: Thank you.
SENATOR ANTONACCI: Thank you. Hi.

MS. TURNER: Hi, how are you?

SENATOR ANTONACCI: Good.

I don't think I'd be here if it wasn't for the hardworking men and women that worked for me for 11 years. They did a great job, and I want to let you know that.

MS. TURNER: Thank you.

SENATOR ANTONACCI: We have some great employees at Onondaga County.

You know, there's been a lot of talk about the direct care movement, and I don't necessarily want to get into a debate over the minimum wage, but I think it's safe to say that the increase in the minimum wage has allowed some workers to maybe make a choice as to whether or not they want this very hard, sometimes ungratifying -- it's gratifying work personally, but you don't get a lot of gratification sometimes -- to go and work at a fast food establishment instead of direct care. Yet I'm believing, or told, that the Governor did not include a
cost-of-living increase, a simple
cost-of-living increase in the budget.

What do we need to do in this budget
to help that particular industry? And maybe
even as much as a particular minimum wage, I
don't know.

MS. TURNER: Well, you know what, I
think it varies by geographics as well. So I
think we need to look at the geographics.

But as far as the COLA for the
not-for-profits goes, yeah, he has
forestalled that for a while, and that's got
to change, because they need to be brought up
as well.

But I think as an industry we have to
look at how do we make this job valuable to
them. How do we make a profession out of
these jobs so that people actually want to
build a career in this industry? And that
is -- that is a longer-term, bigger
picture -- and it's not just money. Right?

It's giving them the career ladder and the
steps and the educational opportunities to
improve their skills and continue their
education and feel valuable because their
jobs are valuable.

SENATOR ANTONACCI: Sure.

MS. TURNER: But for them, people
would not be taken care of in the
developmental or in the mental health world.

They wouldn't be taken care of.

SENATOR ANTONACCI: Yeah.

MS. TURNER: But this applies across
the industry, not just for the state workers.

It's the not-for-profit workers as well.

SENATOR ANTONACCI: Okay. Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: Assemblyman
Bronson.

ASSEMBLYMAN BRONSON: Good evening,
Fran.

MS. TURNER: How are you?

ASSEMBLYMAN BRONSON: I'm doing well.

Nice seeing you.

So it's interesting to observe what's
happening from this administration. You
know, when the commissioner of labor was
testifying earlier today, the vast majority of the questions were about investing in workforce development. We talked about the $175 million -- you know, he now has a new initiative through the Regional Economic Development Councils to emphasize workforce development for the private sector. The tax credits, over and over again, all of these things I support.

But listening to your testimony and reading your written testimony, there doesn't seem to be any emphasis on workforce development for our public employees. And quite frankly, the reason government works is because of the public employees. And many of your members are in the most important occupations in taking care of the most vulnerable in the state.

So you had some suggestions in your written testimony about career pathways, moving people up, maybe -- I think your example was licensed practicing nurses -- and then recruiting other people in to take the other positions.
So I guess -- can you flush that out for me a little bit more? I mean, what kind of conversations have you had with the various agencies to try to really put together a workforce development for the public employees that will benefit the agencies, benefit the employees, and benefit the clients?

MS. TURNER: Well, we have just started talking about it, but some of the things that we were looking at was -- first of all, I'm jealous of the $175 million for workforce development for private sector. I am jealous of that because we certainly could use workforce development money for the public sector.

But we talked about a degree program or a certification program. We talked about perhaps we can partner with the SUNYs or with Empire College where they could get some life credit experience, right, as well as some educational experience to give them more skills. Create a degree program, a certification program. Perhaps we reach out
to the local BOCES to start a program through
the local BOCES that we have outside of
New York City.

I mean, all these things could be
utilized as a way to develop a career path, a
professional career for them. So those are
some of the things that we've thought about,
and we are -- by no means do we have all of
the answers or all of the suggestions. So
anything that you can think of, we would
gladly take and work with.

ASSEMBLYMAN BRONSON: Well, I agree
with you, we need to have some very serious
conversations and dialogue about how to make
this happen, because at the end of the day
it's all about having people have good jobs
and quality jobs so that they can in turn
provide for those clients that you guys
serve. So any way I can be helpful, I
welcome that opportunity.

MS. TURNER: I appreciate that.

CHAIRWOMAN KRUEGER: Thank you, Fran.

We all appreciate you coming tonight.

MS. TURNER: Thank you. Okay.
And our next testifier is Randi DiAntonio, vice president, New York State Public Employees Federation.

MS. DIANTONIO: Good evening.

(Laughter.)

MS. DIANTONIO: And my sidekick, Greg Amorosi.

Good evening, Chair Krueger, Chair Weinstein, and other distinguished committee members. As mentioned, my name is Randi DiAntonio, and I am the vice president of the Public Employees Federation. I am also a licensed master social worker and have worked for OPWDD since 1999, and before that the Office of Children and Family Services. So I can absolutely confirm everything Sister Turner has just said about the difficulties in the OPWDD workforce that have been going on for the last six to eight years as we've transitioned into a model that I believe has been very vague, ill-advised, and not well-planned-for.

I'm here today on behalf of our 54,000
members to speak about the proposed budget.

And, you know, we take a lot of pride in the work that we do. And over the last eight to 10 years, staffing levels in all state agencies, including OPWDD and OMH, have been flat year after year. These budgets are taking a toll on the state workforce.

You know, doing more with less is something we're proud to do. We've been doing more work forever, but it has become increasingly difficult to take care of New York State's most vulnerable citizens, to keep our roads and bridges as safe as they should be, because we're contracting out almost every aspect of that workforce.

Our members are dedicated professionals. They love their jobs. But they're suffering from this understaffing, and low morale was mentioned. That is present in virtually every agency in all fields.

We believe this is a result of a number of factors, but the state's continued reliance on consultants to do the work that
our trained professionals should be doing,

the continued erosion of the civil service

and merit system under which we're supposed
to be operating, the ongoing and disturbing
trend of using private and not-for-profit
entities to do work that -- while we have no
problem with our brothers and sisters in the
private sector, they don't provide the same
level of services with the same level of
experience to take care of New York's most
needy citizens.

And whether it's OITS, OMH, OPWDD, or
DOT, this outsourcing is continuing to divert
services and resources in ways that are
detrimental to our clients, to our citizens,
and to the New York State taxpayer.

The Executive Budget does propose a
small increase in the number of the state
workforce: 678 new positions under the
control of the Governor would be filled in
the upcoming year. But let me point out,
that's out of 120,000. That is an increase
of less than 1 percent. And we're not going
to complain, it's going in the right
direction. However, much, much, much more
needs to be done across the board to make up
for the losses that we've experienced over
the last decade.

The majority of state agencies, if you
look in the budget, contain either zero or
very modest increases. And let me say this.
These positions on paper, it looks like
they're staying the same, but in fact as
people attrit and leave the state workforce,
those positions are not necessarily being
backfilled with like titles.

So you don't lose a nurse and get a
nurse, necessarily; you lose a nurse and you
may get some other administrative position.
So on paper it looks the same, but people
aren't being taken care of as well.

The use of consultants is increasing
in this year's budget. The Governor has
recommended 169 additional FTEs in the
consultant service contract. And let me
point out that nearly $1 billion will be
spent on over 8300 consultants with an
average annual salary of over $112,000. We
believe that money should instead be
reinvested in the state workforce.

We would be thrilled for you to
reevaluate how this money is being spent. We
can do this work and we have done this work
and we believe we do it better.

We’re happy that the Governor hasn’t
proposed any new closures. However, we are
concerned that we were notified outside of
the budget process of the closure of the Ella
McQueen facility. We’re concerned that this
facility provides services to the youth in
the New York City area and that by closing
that, those kids will now be moved to other
facilities. We don’t think that’s the right
thing to do, and we’re asking for your help
again to stop that closure.

We’re also happy that IBR, the
Institute for Basic Research, will remain
open for another year, but we are concerned
that that facility is being underfunded, that
OPWDD, which oversees that facility, has sort
of taken a hands-off, backseat approach and
really is not providing the level of support
needed for the great research that that
facility can do. They take care of babies.
They bring information to us about dementia
and Alzheimer's. And we need the support of
the Legislature to keep that facility open
and functioning.

You know, we thank you for Western
New York Psychiatric Center, and we
recognize -- arghh -- we recognize that the
Governor is adding money -- two seconds --
design-build, again, bad one but an oldie --
but a bad one. We'd like that pulled. We
are the proverbial fox in the henhouse where
safety -- you know, it should be a priority,
and it's not when we have everybody doing the
design, the construction, and the build.
SUNY hospitals, please restore the
subsidy. You did it for us last year, we're
asking for you to do it again. OMH and
OPWDD, I can probably talk for an hour about
it, so I won't, other than to say that you
can't keep throwing money down the drain and
pretend that there are people that don't need
a higher level of services.
Community-based services our members support. Taking away intensive treatment services ends up with people homeless, in jails, and in hospitals where they don't belong. We appreciate your help in reinvesting in that workforce.

We oppose the jail-based restoration.

The Justice Center -- you know, our members are scared. They're at risk of losing that license, they get put out of work for months on end. It doesn't make sense. And, again, we believe in making sure people aren't abused. That has nothing to do with it.

Nurses, we're at a crisis. We have -- Sing Sing is at a 75 percent vacancy rate, all other facilities 20 percent vacancies. We don't pay our nurses enough. They are significantly lower-paid than the private sector with significantly more mandates, significantly more assaults on them, they're working in very difficult environments. So we're asking to look at the civil service salary rate of our nursing and medical titles. We are unable to recruit and retain
CHAIRWOMAN WEINSTEIN: Thank you.

Thank you. We do have your written testimony.

MS. DIANTONIO: I know.

CHAIRWOMAN WEINSTEIN: I know there are some questions.

Senator Savino.

SENATOR SAVINO: Thank you. I just have -- first of all, I agree with everything you said, Randi. Everything and --

everything in your testimony.

There is one question. You mentioned IBR. And so one of the things we've been waiting for for the past couple of years is for this -- you know, the merger of IBR to SUNY, to take it out from underneath the jurisdiction of OPWDD. Because we believe it should be the premier research institution that it can be, but it needs the research and the support structure that SUNY could provide to them. Any idea where they are in that process?

MS. DIANTONIO: So I can just say we
have implored OPWDD to sit down and talk with us. We have not had a blue-ribbon-panel meeting since last April. We have had meetings with -- I know that the council leader and members have met with you and other legislators there. We just wrote a letter to the Governor asking again for clarity on what is going to happen with this facility.

They can't keep operating like this because (a) the building's falling apart --

SENATOR SAVINO: Right.

MS. DIANTONIO: -- they can't get grants. And they provide a really important service.

So no, we don't know what's happened.

We do have a new commissioner at OPW, we have just reached out to him and are hoping we get some additional answers. But at this point we know nothing more than we did a year ago.

SENATOR SAVINO: Yeah. We should talk about this offline. Because again, this was a commitment that was made to the institute,

to the people of Staten Island, in the spirit
of Betty Connelly and the spirit of Willowbrook. This is the site where we believe that with the right structure, research that could be done there could provide the key to autism, and it's unfortunate that they're dragging their feet on it.

Thank you.

MS. DIANTONIO: Yeah.

CHAIRWOMAN WEINSTEIN: Thank you.

Assemblyman Bronson.

ASSEMBLYMAN BRONSON: Good evening, Randi. Nice seeing you.

MS. DIANTONIO: Hi, Harry.

ASSEMBLYMAN BRONSON: So I want to just talk about two things.

First of all, the outsourcing -- as you well know, I've been carrying a bill that would require an analysis be done by an agency on whether or not it could be -- whether services could be cost-effectively done by in-house state employees versus contracting it out. It really is -- it's to get the best result for our taxpayer dollars.
So hopefully we can continue to work on that and get the Governor to agree with us. And, you know, comptrollers on both sides of the aisle have repeatedly issued reports saying that it would save taxpayer dollars. So I’m on board with that.

I want you to -- you and I have talked a lot because the Rochester Psych Center is in my district, literally right up the street from my home. And over the years the beds have been closed, staffing has been shortened, we don't have enough people working there. And the result has been -- so as we have reduced the number of state beds, you would hope that we would be increasing our investment in community-based services to provide the services for these folks who are out in the community. But that hasn’t happened either.

What has happened is that those clients are going to emergency rooms for mental health services.

Could you tell me in your words what's really happening out in the field so people
know what's happening to these clients?

MS. DIANTONIO: So I think, under the
guise of the Olmstead decision, the state
made a plan to move people out of facilities
into less-restrictive settings. And by and
large, our members support every instance
that that can be done when it's done safely.
But what's happening is they took it
and they applied it to pretty much everybody
and said, Okay, you're in an institution,
you're going to be moved here. And so
they've taken people from very highly
structured settings and moved them into
settings where they're not getting the
treatment that they need.

And I think in fact they are playing
sort of games with the beds in many of these
locations, where they keep them vacant for a
long enough period to say that they're not
needed, and then they're able to close the
bed.

What's happening is people with high
needs are being moved out to settings where
they are not getting the care they need.
They don't have the judgement or the ability
to make sure that they take their meds, and
they end up in situations with, you know,
people that come into a home or supportive
apartment who have entry-level education and
experience and don't have the clinical skills
to assess and really take care of these
individuals.

I mean, the reality is there are
many people who could be served in the
community if we had a continuum of care. We
have community group homes that are not being
utilized in the mental health system where
they're leaving beds empty -- those would be
great for transitional services, for people
coming out of hospitals, coming out of jails,
where they can be observed, assessed, ensure
that they are being discharged with the right
care.

What's happening now is our members
are being directed or coerced -- coerced is a
hard word -- they're being directed to
basically make it work: Move this person
out and make it work. And sometimes that's
not possible because the person just needs more services than are available in the community. And we need to do a better job.

ASSEMBLYMAN BRONSON: I thank you. My time's up.

MS. DIANTONIO: Thanks.

CHAIRWOMAN WEINSTEIN: Thank you.

CHAIRWOMAN KRUEGER: Senator Robert Jackson.

SENATOR JACKSON: Hello. Good afternoon, Madam Vice President. How are you?

MS. DIANTONIO: Good, Senator Jackson.

How are you?

SENATOR JACKSON: Good.

So just for disclosure information purposes, I worked for PEF for 23 years. So you just need to know that.

(Laughter.)

MS. DIANTONIO: Do you want to come down here?

CHAIRWOMAN KRUEGER: Thank you for the clarification, Senator.

SENATOR JACKSON: Yeah. So I wanted
to touch base with you on two matters.

The Justice Center -- how has the operations of the Justice Center impacted the members of the PS&T units that PEF members in the various agencies and departments at the Justice Department is involved with?

MS. DIANTONIO: So the Justice Center -- again, well intentioned, but we have a lot of unintended consequences. Primarily in OMH, OPWDD, OCFS, our nurses and the folks that work most closely with the individuals have the highest propensity of being sucked into Justice Center investigations.

We have nurses who have been brought up at risk of losing their license, we have had staff put out of work, paid and unpaid, for months on end, which in turn makes the setting more unsafe versus more safe. Members are afraid. They're afraid to report, they're afraid not to report. They're afraid of false allegations. We serve people that have difficult behaviors, and they have figured out if they say certain
things they can get that person in trouble.

So we have a lot of situations where we can't retain people. They come onto state service and then they get sucked into a Justice Center investigation, they're like, uhn-uhn, I'm not going to lose my license over this, and so they leave. And it's created just this cloud of fear, and people are really reluctant to get into the field.

SENATOR JACKSON: Does that have an impact on whether or not -- if they are brought up on charges, and whether or not they're resolved or not, and they go for employment elsewhere where they're suspended or anything like that, how does that impact their -- another employer looking at them as far as bringing them on board?

MS. DIANTONIO: So it depends on who the other employer is. If it's another state agency, they would have access to see allegations, substantiated or not. If a charge is substantiated and it is in a certain category, this could potentially stop
someone's career in the medical field.

Anywhere that takes Medicaid or Medicare,

they would be on an exclusion list, so they

wouldn't be able to work anywhere -- doctor's

offices, hospitals. So it's a deal-breaker,

it's a career-ender in certain instances.

So that is a huge concern for our

folks in the medical field particularly.

SENATOR JACKSON: And how is the

situation with SUNY hospitals and the

staffing situation overall -- and I know

there's a big hospital at Stony Brook, and

Upstate New York -- as far as nurses? Can

you elaborate on that from the union's point

of view?

MS. DIANTONIO: The SUNY hospitals, by

and large, are understaffed with nurses.

There is excessive amounts of mandatory

overtime, our nurses have been given sort of

carrots with geographic pay. But that's not

the solution. They are not being paid

significantly close to what the private

sector is making, and then they still have to

deal with all this other stuff.
And so people are not -- they're not saying the scheduling is out of control at the SUNYs. They're all over -- they're being moved to units that they're not -- they have no experience with because of short staffing.

SENATOR JACKSON: And how would that impact the -- looking at it, it says the Governor has again -- to eliminate the subsidies for the hospitals, and $78.6 million -- if in fact that's not renewed, I would assume it would be a devastating impact on SUNY.

MS. DIANTONIO: Yeah, I mean the SUNY hospitals right now are not budgeting it in a way that takes care of their employees. So loss of that amount of money would absolutely devastate the recruitment, retention, and keeping of nurses at those hospitals.

SENATOR JACKSON: Right. Well, let me thank you for your testimony. I appreciate the opportunity to chat with you.

MS. DIANTONIO: Thank you.

CHAIRWOMAN KRUEGER: Thank you so much for being here tonight.
MS. DIANTONIO: Thank you so much.

CHAIRWOMAN KRUEGER: Next is Barbara Zaron and Joseph Sano, Organization of New York State Management Confidential Employees.

Hi, Barbara. Good evening.

MS. ZARON: Good evening, Chairwoman Krueger and Weinstein and committee members.

Thank you so much, first of all, for your support last year for our retiree parity bill which was poised to pass and at the last minute was stopped.

So here we are. This is the 10th year we've been trying to fix this problem, and we're back here asking you to help us. Our bill has been introduced -- it's Assembly 2462, Senate 899 -- and we would seek your support and hopefully inclusion in the budget, because otherwise the Governor is going to say it's not in the budget, no go.

You've already talked about the Governor's three proposals for retiree health insurance. I won't belabor the point. We have unequivocally opposed these proposals
five years -- this is the sixth year. We
urge you most strenuously to reject them
again this year.

We do support granting the State
Comptroller the authority to approve, review
and approve, certain SUNY and CUNY contracts.

But we have serious questions about why the
Governor thinks that the Inspector General
needs to be put into this mix. He has
proposed, at least in our reading, he's
proposed that the Inspector General be
reviewing and approving these contracts at
the same time as the Comptroller is doing it,
which seems completely duplicative and
unnecessary.

If the Inspector General should be
involved, it should be after the Comptroller
has already done the review and, if there's
an identification of something wrong, it can
be referred to the Inspector General for
further investigation.

As you see in our written testimony,
we have serious concerns -- and this is for
the long-term health of the civil service
system and the workforce -- about the increasing numbers of exempt and noncompetitive positions specifically in the M/C jurisdictional class. According to the 2017 workforce report, 2 percent of the total workforce is in the exempt category. But 30.4 percent of the M/C positions are in the exempt category, which to us is completely way, way, way out of bounds.

There was a mention made earlier of succession planning. We've been talking about this for years. We have made a series of proposals. We note that $500,000 has been included in the Civil Service Department budget this year for possibly five pilot programs which could be implemented, and including succession planning activity, so we're happy to see that and certainly interested in working with the Civil Service Department.

We raise the income protection plan, which is a program that mandates M/C employees essentially give up five days of their annual leave -- annual leave?
MR. SANO: Sick leave.

MS. ZARON: -- sick leave accruals every year, and that five days goes to pay Metropolitan Life to provide a short- and long-term disability program.

M/C employees come to us and say, Can't I get out of this, can't I get out of it, can't I get out of it? There is no provision for an opt-out. We are proposing that there should be a one-time opt-out provision offered to M/C employees, and there also should be much more oversight of the program generally, because lately there has been an increase in what we call bungled and rejected claims. So we think that needs to be addressed.

There are a number of issues that were raised -- I see the yellow light.

CHAIRWOMAN KRUEGER: One minute left.

MS. ZARON: One minute.

I just want Joe to mention -- we have a lot of experience also with the Justice Center, so if you will indulge me,

I'd just like him to talk about our
MR. SANO: The biggest thing about the Justice Center, which was kind of hinted all around it today, was the fact that -- and Fran had mentioned the fact about the overtime. Our people are the managers that manage these units, and the problem is that very often we see that positions have been allocated in the budget that you will help pass. You'll allocate positions for OPWDD and OMH, and then the Division of Budget will sit on these.

As Senator Jackson knows very well, the old joke in state service was don't travel and don't put in a request for any new help in January, February, or March, because they have to roll over that money.

Last year, what, $1.3 billion was rolled over to cover the deficit? And that basically was money coming out of personal services.

You don't have the personal services that have been allocated, you don't put the people there to do the work -- then you have
problems.

We have one situation that I can tell

you how it really affects people. PEF kind

of hinted at it. There's something that's
called a safe takedown position, and the safe
takedown requires two individuals to help

somebody that's in panic mode, to bring them
to the ground so that they're safe, they're
not hurting themselves or somebody else.

What do you do when there's only one
person on board? What do you do? You bring
the person down, you get the risk of being
brought up on charges. I would venture to
say that we really have to take a look at the
Justice Center and see if we're any better
off with the Justice Center and all of the
expenses associated with the Justice Center
than we were with the Commission on Quality
of Care. I don't think that we are.

CHAIRWOMAN KRUEGER: Thank you. So --

MS. ZARON: No, no, no, I'm not -- all
I'm going to do is say we would be happy to
meet personally, individually, with any of
you who want to talk more about -- in more
depth about some of these other issues.

CHAIRWOMAN KRUEGER: Thank you very much.

Any questions?

Thank you both for being here.

MS. ZARON: We can do that with our individual meetings.

CHAIRWOMAN KRUEGER: Exactly. Thank you very much.

Next, John McPadden, Retired Public Employees Association.

Good evening.

MR. FARRELL: Chair Krueger, good evening. I am not Jack McPadden. Jack was unable --

CHAIRWOMAN KRUEGER: I didn't think so.

MR. FARRELL: No, I'm Ed Farrell. I'm the executive director.

CHAIRWOMAN KRUEGER: Thank you.

MR. FARRELL: And Jack had a commitment that he was not able to be here tonight.

But in deference to your long hours
here today, I will be very brief. I will quickly summarize the testimony and take any questions that you may have.

It's a big year for the Retired Public Employees Association. We're celebrating 50 years of existence. There are over 400,000 public retirees in New York State -- that's from the State and Local Retirement System -- and over half of those are in NYSHIP. And this brings to the forefront the issues that we want to raise today regarding the Executive Budget.

Assemblyman Abbate earlier referenced some oldies but not so goodies. For those of you who have been here before, you recognize both of these -- one as it relates to the capping on the Medicare reimbursement, and the second one was eliminating the IRMAA reimbursement.

Senator Seward, if I could follow up quickly. What the commissioner said was accurate, but it refers only to state employees -- state retirees. There are retirees in NYSHIP who are not state
retirees, they're locals or they're
participating agencies, state authorities,
et cetera. So I just want to clarify that.

So those are two things the Governor
proposed, both of which we opposed, you have
opposed in the past, and we hope you will do
so again.

We quickly want to touch upon some
other things that have fiscal implications
that we hope you will consider as you move
forward.

The first is there is no IRMAA
reimbursement for Part D prescription drugs
in NYSHIP. There was a conscious decision on
the part of Civil Service not to include
that. NYSHIP has only been in Part D
Medicare prescription reimbursement for five
years, even though the program has been
around for 15. So for those 10 years before,
retirees had their total prescription costs
reimbursed. Then when Civil Service made a
decision to move into Part D because it
became more advantageous, they never
submitted language to amend the Civil Service
Law so that it could be reimbursed.

The second is survivors benefits. It hasn't been increased in 50 years. It's time. There have been bills for a modest reimbursement, the costs are minuscule.

The third one is really important, and it has to do with skilled nursing facilities, and it's probably not well known. But if you are in any NYSHIP and you are 65 and turn Medicare-eligible, you receive a lesser benefit than another participant in NYSHIP who is under 65. If you are over 65 and you need to go to a skilled nursing facility, (1) you have to stay in the hospital for three days; (2) you're only fully reimbursed for 20 days. If you are under the age of 65, you are fully reimbursed for 365 days, and you do not have to spend 20 days in the hospital.

We have raised this with the administration, first with the Department of Civil Service, second with the Council on Health Benefits, and finally with the Department of Financial Services. We firmly believe that if you are receiving a lesser
benefit solely because of your age, and
that's the only reason, that is age
discrimination. Which they refute.
So we will be coming to you,
hopefully, as silly as it sounds, to say age
discrimination in New York is illegal,
contrary to the opinions of the Department of
Financial Services.
Finally, we support what Barbara had
said about the M/Cs. They need some help.
It's only a matter of equity.
So in closing, we thank you for
listening. We are available to take
questions and, as we move forward, we hope we
can discuss with you some of these issues
that were not raised in the Executive Budget.
Thank you.
CHAIRWOMAN KRUEGER: Thank you.
Senator Jackson.
SENATOR JACKSON: Good evening.
MR. FARRELL: Good evening.
SENATOR JACKSON: I was saying good
afternoon all afternoon.
But you raised the issue of age
MR. FARRELL: Correct.

SENATOR JACKSON: -- regarding the access to skilled nursing facilities. When you go the distance administratively, then you sue. Have you considered, the organization, taking legal action to sue for discriminatory practices?

MR. FARRELL: We have considered that, but we would prefer a legislative remedy first because it's very difficult and expensive, it takes a long period of time to sue the State of New York. We think the matter is -- on its face is blatant. And it's silly, as I said, to have the Legislature have to say it is illegal to discriminate based upon age.

SENATOR JACKSON: Right.

MR. FARRELL: We would think that would be covered by the State Insurance Law.

SENATOR JACKSON: Sure. So -- and what about -- do you have sponsors of any proposed bills in the Senate and the Assembly?
MR. FARRELL: We do not have a bill at this point on the skilled nursing facilities.

The prescription drug has a sponsor, the survivors benefit has a sponsor, the skilled nursing does not. And the M/C has been around -- Senator Young had it, and Assemblywoman Fahy, last year.

SENATOR JACKSON: Thank you. I look forward to working with you.

MR. FARRELL: Thank you. With you as well.

SENATOR JACKSON: I'm a retired government employee also.

MR. FARRELL: All right. Well, you should be a member.

CHAIRWOMAN KRUEGER: Just one follow-up question.

MR. FARRELL: Certainly.

CHAIRWOMAN KRUEGER: So when did this change, that it was a different rule if you were under 65?

MR. FARRELL: It's been -- it's not recent. It has been there, we think, for 30 years. We have asked the department if
they could explain to us how this happened
and when it happened, and if there were
any -- is there anything in their records
that they can produce as to why they thought
this was a good idea.

The best as we can tell from people
who were there is they think it's a carryover
from before the Empire Plan existed. This
20-day requirement is the Medicare
requirement. If you are on Medicare and that
is the only insurance you have, you get the
20 days and you have to stay the three days.
That's a federal requirement.

But participation in NYSHIP was always
intended that it would be -- you would not
lose your benefits because you went on
Medicare. And there's even language in the
bill jacket that when the state opted in back
in the late sixties, that it said that
Medicare would be in addition to any benefits
you receive under the State Health Insurance
Plan. And in this one instance, it's clearly
not.

CHAIRWOMAN KRUEGER: Thank you.
Anyone else? Then thank you very much for your time tonight.

MR. FARRELL: Sure. Thank you.

CHAIRWOMAN KRUEGER: Next we have Martha Ponge and Harold King from the Manufacturer's Association of Central New York.

Are you based in Syracuse?

MS. PONGE: Yes, we are.

CHAIRWOMAN KRUEGER: Okay. So we're going to holler for Bob Antonacci to get onstage.

(Laughter.)

CHAIRWOMAN KRUEGER: Just saying.

MR. KING: Be careful what you wish for.

(Laughter.)

CHAIRWOMAN KRUEGER: You claim to be from Syracuse --

ASSEMBLYMAN BARCLAY: I'll ask the questions.

CHAIRWOMAN KRUEGER: All right.

(Laughter.)

CHAIRWOMAN KRUEGER: Sorry, we're all
a little punchy.

MS. PONGE: Yeah, that's all right.

MR. KING: I don't doubt it.

CHAIRWOMAN KRUEGER: Good evening.

MS. PONGE: Good evening, Chairs Weinstein and Krueger and distinguished members of the Finance Committee. My name is Martha Ponge, and I serve as the director of apprenticeship for MACNY, the Manufacturers Association of Central New York. Our organization represents over 330 employers in 26 counties.

I'm joined by Harold King, who is president of the Council of Industry, located in the Hudson Valley. Collectively, we also represent the Manufacturers Alliance of New York that supports approximately 1500 manufacturers across the state.

We want to thank you for the opportunity to be here today to speak to you on the continued success of the Manufacturers Intermediate Apprenticeship Program, known as MIAP.
MACNY and the alliance are committed to promoting innovative and effective career pathways to grow the number of qualified applicants in advanced manufacturing throughout our region and statewide. We are engaged in creating registered apprenticeship training programs to increase the number of mid-skill-level technicians within manufacturing.

We are able to do this critical work because of the legislative line item for MIAP that you provided over the past three years. And we are here requesting that we have our funding restored, as it was eliminated in the 2019 and 2020 Executive Budget.

MIAP is designed to address this single biggest challenge that faces New York manufacturing companies, and that is workforce. The current reality is that companies face the retirement of the Baby Boomer generation and are poised to lose between 25 and 40 percent of their workforce in the next five to seven years. This shortage of skilled workers could not only
cripple our existing manufacturers, but it makes New York much less able to attract new business.

We need to intentionally and effectively disrupt this trend by finding ways to get more young people, more job-changers, more women, more minorities, those with disabilities, and our veterans into the manufacturing workforce. And we can do this through registered apprenticeship training opportunities.

The apprenticeship programs that have proven to be the most successful are those that are designed by employers and based upon their own needs. MIAP is targeted at raising the skill levels of incumbent manufacturing workers and creating distinctive career pathways and filling a crucial need within the industry.

In Central New York, our program -- which has been active for about a year and a half -- has more than 30 companies who are participating in the establishment of registered apprenticeships. We have over 120
apprentices currently at 20 different companies. We project having a growth of a minimum of 50 additional over the coming year. In addition, our alliance partners in Rochester have over 40 apprentices, and Harold's organization has enrolled 26 apprentices at 15 different companies over about the past six months.

To date, we have about a 98 percent retention rate in the apprenticeship program, and we're very proud of that.

Successful implementation of the apprenticeship program has already created a statewide need to begin to fill the pipeline even earlier with pre-apprentices. Pre-apprentices will have to come equipped with stackable credentials and prepared to go directly from high school into careers in manufacturing.

Modern apprenticeship has two basic elements, on-the-job training and related instruction. And in the pilot program, we identified five very traditional occupations such as CNC machinist, electronics
technician, maintenance mechanic, toolmaker, and welder. We chose those as the most high-demand areas when we began, but since then the alliance partners have added over 15 additional trades and advanced manufacturing. We’ve also helped to establish three completely new trade outlines in advanced manufacturing, and we worked with partnering agencies to create seven new IT trades which will support our manufacturers statewide. We are also currently working with Cornell University to begin apprenticeships within the dairy industry. Last year the MIAP program was funded at $750,000 for Central New York, Hudson Valley, Rochester, the Capital District, and the Southern Tier. As a result of all those positive results for MIAP, MACNY is poised to continue our efforts. But we would like to expand into New York City and into Long Island. Those two regions alone are home to over 3500 manufacturing companies. We have been approached by manufacturers in these two regions asking to
participate, but in order to sustain our
current work and to expand across the state,
we would need to request a total of
$1.25 million in funding.
The State Department of Labor
continues to be very supportive of our
approach, and we continue to work with them
to address the implementation of our
programs. Our manufacturers know us and they
trust us, and therefore we have the ability
to bring hundreds and hundreds of additional
small- and medium-sized companies to the
table.

CHAIRWOMAN KRUEGER: I'll cut you off
right there.

MS. PONGE: That's all right. Thank
you for your consideration.

CHAIRWOMAN KRUEGER: And we appreciate
that.

MS. PONGE: Not at all.

CHAIRWOMAN KRUEGER: And certainly it
does help with some of the earlier testimony
from the Department of Labor and others.

And we have --
CHAIRWOMAN WEINSTEIN: -- Assemblyman Bronson.

ASSEMBLYMAN BRONSON: Good evening.

MS. PONGE: Good evening.

ASSEMBLYMAN BRONSON: And thank you for the work you do. We've met many, many times. And the approach of bringing employers together to train a pool of potential employees shares cost, it shares collaboration, as you indicated, it's an industry-driven approach to job training with the gold standard of apprenticeship.

So kudos for all you do.

I want to ask you about the Empire State Apprenticeship Tax Credit. So we've talked about having your employers try to take advantage of that. Could you give me a summary or how effective have employers been able to get the application for the tax credit, and if you have any numbers of how many of them have taken advantage of it?

MS. PONGE: I can tell you that all of the companies that are registered with us have taken advantage of the tax credit.
Generally when we go in and we try to discuss that we're going to have to apply for something, it's kind of like, arghh, how much paperwork? They have all said this is one of the easier initiatives to apply for and one of the easiest to provide documentation for, so they are all very much -- very grateful for what you've done to provide that for them.

ASSEMBLYMAN BRONSON: Excellent. I'm so glad that we were able to get that in such a way that it made it accessible and easy to maneuver through.

The second piece was the Cornell agriculture piece, and I'm so glad that we were able to get you guys connected. Where do you stand with moving an apprenticeship program forward for the Ag industry?

MS. PONGE: On February 14 we'll be meeting with six of the top dairy producers in the state. They're coming with Cornell to hear about how we can partner so that Cornell can do the dairy education and we can provide the technical training that they need.
If the dairy industry does not start
to produce some of its own technicians for
their automated machines, they're not going
to be able to stay in New York State.

ASSEMBLYMAN BRONSON: Okay. Well,
please keep me informed about that. And any
way I can be helpful, don't hesitate to call.
Thank you.

CHAIRWOMAN KRUEGER: Thank you. Thank
you very much for your testimony.

MS. PONGE: Appreciate it.

CHAIRWOMAN KRUEGER: And our last
testifiers tonight, Professional, Scientific,
and Technical Collective Bargaining Unit,
Nikki Brate and Penny Howansky.
Is there anyone else here who thinks
they're supposed to be testifying? This is
the last one in my book. See, no one else
came forward. Okay.

Good evening.

MS. BRATE: So, good evening

Madam Chair, distinguished members of the
New York State Legislature, guests, fellow
New York State employees. I just want to
take a really quick moment and give you a sincere thank you for actually allowing others other than the collective bargaining representatives to speak, because I think it's necessary sometimes that you get another view on some of the changes that are being proposed within the Taylor Law.

I'd really like to thank you for your commitment and your progressive stances on making sure that labor is not under attack, you know, by outside forces. But sometimes, you know, we have to look within. Sometimes there are issues that we can no longer hide our heads in the sand and we have to recognize. So that's setting the stage for my conversation.

You know -- as you know, I believe that the intent of the Taylor Law was enacted -- really was a mechanism to resolve conflicts between individuals, employers, employee organizations, and so on and so forth. And the changes of late have only really taken into consideration the needs of the labor organization itself, while at times
ignoring the actual New York State collective bargaining units' employees' needs.

Specifically, recent amendments to the Taylor Law really took away the right to fair union representation from certain New York State employees. Due to the amendment, New York State employees must now either join and pay dues or give up their right for representation. There is no other choice.

This would be similar to asking a person under arrest to either pay for representation or have none at all. Which, you know -- as we all know -- it's unconstitutional.

There's a reason I'm saying that.

It's assumed that someone may not want to join the union because they want to be a freeloader. That's a really broad assumption and simply an unfounded assumption that has been made. When we kind of move forward and look -- and I know that the spirit and the intent of the collective bargaining unit really was to allow for representations of all, but they all say the misconception that those that don't pay are the freeloaders,
want representation without paying for it --

we believe that term is insulting to those

employees that a properly designed,

well-represented study would show that view
to be incorrect.

Again, using the example given above,

if someone was arrested and cannot afford

representation, does that make them a

freeloader? No. And if you kind of look at

some of the things you heard today, somebody

that is brand-new coming into the workforce,

and we've asked Civil Service for forgiveness

on perhaps paying exam fees, well, there

could be circumstances where they don't or

are not able to. But that doesn't mean they

are freeloaders, and they shouldn't be

framed -- and it's really causing havoc in

the workplace.

Which brings me to the disclosing of

personal identifiable information. You know,
in addition to the proposed changes to the

Taylor Law that would make it improper

practice for New York State public employers
to disclose personal, private identifying
information to the outside public -- we thank you for recognizing that. However, despite the above, the budget also proposes a change to the Taylor Law that would require, at the request of the union, that the state provide all public employees' names, addresses, job titles, employing agency or department and work location for those in the collective bargaining unit.

Because of the data breaches that happened at a specific unit -- and I've got to tell you, I've got to really say -- this pains me, because I am a unionist. But because of the harm that data breaches have caused, there are some that cannot have their name and phone number released. There aren't orders of protection. 911 has had them and called.

And for the state to just pass this information -- because that is the collective bargaining unit that we're assigned to because we want to be New York State public servants -- there has to be, must be some protections for the employee from the union.
We can't hide our heads anymore and say union abuse doesn't exist. We can't hide our heads and say that there isn't violence going on in the union, because I'm sure some of you are aware, and I'm sure many of you have seen many a Times Union article that there is conflict within the employee organization and the collective bargaining unit itself. It's not harmonious.

And for anybody to sit here and think that it is, that's just completely saying that we don't need unions to create a harmonious workforce within the agencies. I mean, there has to be both ways gone at.

Specifically, and I didn't want to have to be --

CHAIRWOMAN KRUEGER: Can you --

MS. BRATE: -- put into this position,

but we have to ensure that when our data is collected by New York State, that it's protected. And sometimes it needs to be protected from the union. We need to make sure that our data is going to be used for the purposes intended to. And that hasn't
been the case.

We have had current unions charging our employees, our unionists, with falsely accusing people of sexual harassment. We have had our EOL, our contract, used to discipline the very members that it is supposed to represent. We have had our contract used for purposes of employment versus representation. And these are things that really have to be looked at as we move forward and continue to make dramatic changes to the Taylor Law.

And one of the biggest reasons I say this is that we have an opportunity to make this right because there's a lot of other cases coming up at the Supreme Court that actually are going to target exclusive representation. I don't want to lose that. But at the same time, I want to recognize that the employees deserve just as much consideration by virtue of being a New York State employee and being placed in that collective bargaining unit. And our data should not be used for any other purposes,
and we need protections and assurances that it won't be.

CHAIRWOMAN KRUEGER: Thanks for your testimony.

I also hope you were listening when I was asking the commissioner of GOER about the new procedures for filing complaints if you're a state agency worker, and it might be worthwhile to test out that complaint system to see whether there's anything working in that.

MS. BRATE: That was tested out. And because the union itself is a nonprofit organization, it's difficult. And this is where you guys are going to find yourselves in a dilemma. They're saying it's related to the union. I argued that being a New York State employee, that is an extension of my workplace. So if I have to attend a meeting -- so you have -- we have a little bit of a dilemma there.

CHAIRWOMAN KRUEGER: Right. And I don't know the answer to that, and I'm going to have to cut you off tonight.
Were there any other questions?

So thank you very much for your testimony.

MS. BRATE: Thank you.

CHAIRWOMAN KRUEGER: And it will be part of the entire record of the hearing. And I thank everyone for staying. I don't know who you other people are here hanging out, but go home and come back 9:30 tomorrow morning. And it will be a Health budget hearing that will make this seem like a very short day.

(Laughter.)

CHAIRWOMAN KRUEGER: Thank you all.

(Whereupon, the budget hearing concluded at 7:07 p.m.)