

1 which is why we think also that it should be a
2 prospective program without a three year look back if
3 there is a new program.

4 CHAIRMAN KRUGER: Thank you.

5 CHAIRMAN FARRELL: Thank you.

6 CHAIRMAN KRUGER: James Parrot, Fiscal
7 Policy Institute.

8 MR. PARROT: Good afternoon, Chairman
9 Kruger, Chairman Farrell, members of the Assembly and
10 Senate.

11 I applaud your endurance. Out of respect
12 for your endurance I'll try and be brief. Others have
13 pointed out that New York is facing an unemployment
14 crisis, 850,000 New Yorkers out of work. What they
15 haven't pointed out is that two out of every five of
16 those unemployed workers have been unemployed for more
17 than six months, and one out of six have been unemployed
18 for over a year.

19 Unemployment not only damages our economic
20 capacity and potential in the future, but long term
21 unemployment has an even greater damage. And when you
22 factor in discouraged workers and the underemployed, the
23 underemployment rate doubles.

24 New York State needs 750,000 jobs over the

1 next five years to restore the 330,000 jobs that were
2 lost so far in the recession and keep up with the growth
3 in labor force. That would bring the unemployment rate
4 in 2014 back to five and a half percent, which is a
5 modest goal, given that the average unemployment rate in
6 the state was under five percent throughout 2006 and
7 2007. This would be about 150,000 jobs a year, also not
8 an unattainable goal given that from 1995 to 2000 New
9 York had about 160,000 jobs a year.

10 Given this critical jobs need, it's
11 important that actions taken to balance the state budget
12 not exacerbate the economic slump and increase
13 unemployment.

14 This is a severe national economic downturn.
15 It is not caused by New York's budget policies, as some
16 have argued. In fact, many states, including several
17 low tax states in the sun belt, have experienced greater
18 job declines than New York in this downturn.

19 It is highly questionable, if not ludicrous,
20 to think that New York can pull itself out of the
21 recession by slashing its budget. The main determinant
22 of the health of New York's economy is the health of the
23 national economy.

24 Our most critical economic need is for sound

1 macroeconomic policy and actions at the national level
2 to create and sustain jobs, including action to provide
3 fiscal relief to state budgets to keep them from
4 worsening local economies by cutting their budgets or
5 raising taxes further.

6 I understand that in the President's budget
7 released today that there is proposal for further state
8 fiscal relief. I think that would be welcomed by all of
9 us.

10 Economic development discussions, either
11 explicitly or implicitly, employ differing conceptions
12 or the factors affecting the competitiveness or economic
13 vitality of a state or a region. Our view is that
14 business cost approaches that focus only on cost as
15 opposed to the value of what is produced provide limited
16 insight.

17 It's important to point out that New York
18 has the highest value added per worker among the large
19 states with diversified economy; and depending on how
20 you measure it, the average New York worker is 15 to 30
21 percent more productive than the national average.

22 In most sectors important to the New York
23 economy, we rank first or second most productive among
24 the ten large diversified industrial states. Value

1 added represents total wages and profits.

2 It's puzzling, it's always been puzzling to
3 me why this sort of data is not on the home page of the
4 Empire State Development Corporation. If you look at
5 appendix B in my testimony, you will have these figures,
6 you will see these figures for 2007, the latest that
7 they are available for.

8 Studies show that New York's tax environment
9 has not translated in uncompetitive rates of return for
10 businesses operating here. A 2007 study by economist
11 Don Boyd found that while businesses operating in New
12 York City had higher federal, state and local tax rates,
13 that like businesses in six other neighborhoods and
14 competing states, businesses operating elsewhere in New
15 York State had the lowest federal, state and local tax
16 burdens compared to the six other states looked at in
17 this study -- California, Connecticut, Florida,
18 Massachusetts, New Jersey and Texas.

19 A new study by economist Peter Fisher and
20 Ellen Peters that looked at after tax returns -- after
21 tax rates of return for representative firms in eight
22 key technology oriented industries, operating in seven
23 mainly northeastern states, from this study they
24 concluded, "The after tax rates of return varied little

1 among the states with other factors being held equal".
2 In fact, the study found that the after tax rates of
3 return for New York based operations were slightly above
4 the median of all seven states in each of the eight
5 technology industries examined.

6 Regarding the Governor's proposal to launch
7 an Excelsior program, we have the following comments.
8 It's proposed with the \$250 million cap. We would
9 rather see the cap applied to the combined costs going
10 forward at the Empire Zone Program and the Excelsior
11 program. So, in fact, the Excelsior program should be
12 funded as the Empire Zone Program winds down.

13 Second, there needs to be much stronger claw
14 back policies. Firms that do not meet their obligations
15 under the program should repay the credit -- the full
16 amount of the credit received.

17 As it is now, if you don't fulfill your
18 obligations the amount of the credit only gets added to
19 your income. You have to pay tax on it but you don't
20 have to pay back the full amount of the credit.

21 Finally, given the proliferation of business
22 tax credits of New York in recent years, there are
23 already 36 business tax credits with 12 enacted in the
24 last three or four years. Any new legislation should be

1 carefully considered and provide for regular evaluation
2 and modification.

3 The annual value of tax credits has sky
4 rocketed from less than \$200 million in 1994 to over
5 \$1.2 billion in 2008. Plus, as Senator Kruger noted
6 before, there is an enormous amount of carry forward tax
7 credits, well over \$2 billion worth, that will offset
8 future tax liability and lessen tax collections.

9 We think the Governor's proposal for the
10 small business revolving loan program, loan fund, makes
11 sense, particularly given the current difficulties that
12 small businesses face in the credit market. This seems
13 like a reasonable response.

14 Regarding the new technology seed fund, that
15 also seems like a good idea but it does seem to be
16 somewhat similar to two existing programs that have been
17 mentioned, the technology transfer incentive program,
18 and the small business technology investment fund that
19 are run by the New York State Technology and Research
20 Foundation.

21 So, there certainly needs to be close
22 coordination. We heard from the Commissioners this
23 morning that is their intent. It was also heartening to
24 hear, in response to Senator Liz Krueger's question this

1 morning, that Commissioner Mullen and Reinfurt, for that
2 matter, both agreed that the state should be receiving
3 something in exchange for its investments in technology
4 oriented projects.

5 We think this is long overdue. The state
6 has done this a little bit through the small business
7 investment fund, but it needs to do that across the
8 board in areas where it's subsidizing technology
9 development.

10 Let me comment on the IDA, the pending IDA
11 reform. Too often, IDAs have subsidized poorly paid
12 jobs that undermine economic development. IDA decision
13 making should be accountable and more transparent and
14 the programs should require prevailing wage for
15 construction projects, and living wages for permanent
16 jobs.

17 And extensive economics literature shows
18 that prevailing wage and construction means more cost
19 effective construction and more skilled and better paid
20 workers. A widely publicized critique of the prevailing
21 wage concept applied to New York IDAs assume that labor
22 productivity is the same for all construction workers
23 whether they are paid that prevailing wage or not.

24 That assumption flies in the face of

1 considerable research by construction economists that
2 shows that workers paid prevailing wages are much more
3 productive and cost effective than workers paid lower
4 wages. This is because, obviously, they are better
5 trained, they receive intensive skill, and safety
6 training in real apprenticeship programs. They require
7 less supervision and they save on materials and time
8 because they do the job right the first time.

9 The state should have a general policy of
10 making taxpayer funded economic development benefits to
11 performance standards. The state should only subsidize
12 companies that provide good jobs, opportunities for
13 disadvantaged communities, and are good environmental
14 citizens.

15 Thank you very much for the opportunity to
16 testify. I would be happy to try and answer any
17 questions you might have.

18 CHAIRMAN KRUGER: Thank you.

19 CHAIRMAN FARRELL: Thank you.

20 CHAIRMAN KRUGER: No questions on this side
21 at the moment. Thank you.

22 Marnie Lavigne, University of Buffalo.

23 CHAIRMAN FARRELL: We are joined by
24 Assemblywoman Peoples.

1 MS. LAVIGNE: Good afternoon. Thank you for
2 the opportunity to address you today.

3 The details in my testimony will be in
4 writing in front of you, and I know I've had a chance to
5 speak with some of you in the past.

6 There are a few points that I will cover
7 with you today in my role as Director of business
8 Development for two University at Buffalo programs.
9 One, the Center of Excellence and one the CAP program.

10 I spend my days in what is known as the
11 valley of death with our new high tech companies. I
12 just want to emphasize what I think has been a point of
13 confusion is I have heard questions and remarks about
14 programs like the new technology seed fund. The devil
15 is in the details on this. There are real differences
16 between each of those programs companies I work with can
17 use, and which ones they cannot, and I think it's
18 crucial that you understand the differences.

19 I just want point out to you that we have
20 been quite successful since the launch of life sciences
21 initiatives in early 2000. We, in fact, have launched
22 over 45 new life sciences companies in the
23 Buffalo-Niagara region alone, and created or retained
24 over 5,000 new jobs.

1 In addition, I would comment that UB CAT has
2 seen over a 40:1 return on commercialization activities
3 in the past two years, and that is without a fund that
4 has a payback. So, I really want to emphasize for all
5 of you who will be making decisions here that when you
6 are trying to foster new technology businesses and
7 economies, it's really important to understand that you
8 need a pipeline of resources that is a combination of
9 equity backed, payback based investments, but also grant
10 vehicles.

11 So, in other words, the programs that we
12 operate now at the Center of Excellence and the CAT do
13 not have an equity base to them, but they are the most
14 crucial activities to ever present to that new
15 technology seed fund an opportunity that will ever pay
16 back New York State taxpayers. So, it is crucial that
17 we pay attention to this new economy recipe and the
18 valley of death.

19 I would say to you I'm most gratified that
20 the new technology seed fund is evidence that our pleas
21 were heard over this past year at various task force and
22 town hall meetings. Thank you. It's really crucial,
23 but I also need to emphasize that that seed fund alone
24 will not do it.

1 Two percent administrative overhead means
2 that there's no way that a researcher coming from a lab
3 with a new drug, a diagnostic or medical device, could
4 possibly prepare a business plan, create a prototype,
5 and assemble business talent without what I will broadly
6 call commercialization support. That is what I do every
7 day. That is what my colleagues do at other Centers of
8 Excellence, at other CAT programs, as well as community
9 based programs like regional technology development
10 centers.

11 We work in sync every day to figure out how
12 to create a robust pipeline. So, while we do have the
13 technology seed fund, I would say to you and ask you to
14 consider trying to find additional dollars for
15 commercialization. Many of you realize that the CAT
16 programs were on the chopping block, and thank you for
17 restoring them, but I do submit to you that we are
18 operating on absolute operating dollars that are less
19 annual than what we received when the program was
20 started in the early '80s.

21 The amount that we are able to do is really
22 limited, which will a priori hurt the chances of your
23 seed fund actually getting good candidates. That's the
24 job I feel I have now that you put the seed fund in

1 place.

2 In addition to considering the
3 commercialization dollars, I would actually say to you
4 that the budget that's being proposed is putting dollars
5 in non-strategic places. In fact, the innovation
6 economy matching grant program doesn't target the valley
7 of death. It actually targets the research phase before
8 that valley of death and the large company and business
9 phase that comes after.

10 So, in fact, we've kind of missed that
11 because the federal government, in issuing those
12 stimulus funds, in fact, left out companies in the
13 valley of death. An exact example is that the federal
14 small business innovation research program, which is a
15 perfect grant program for our early stage, high tech
16 companies, they were not eligible for ARRA or stimulus
17 funds.

18 So, none of those companies who are
19 wonderfully getting those federal funds can actually
20 apply to this matching grant program. So, indeed,
21 that's another issue I think we need to address.

22 As Assemblyman Gabryszak appropriately
23 stated, right now New York State only invests 25th in
24 other states in the US in commercialization activities

1 behind Alabama, South Dakota and Oklahoma.

2 I know we all want a payback for our dollar,
3 but we have to understand that transforming this economy
4 requires that investment, not every dollar of which can
5 be returned in the same way as we think about our bank
6 accounts or our mutual funds.

7 We have to understand that investing in the
8 valley of death is just like investing in the early
9 research discovery phase. If we don't put some dollars
10 there we will not see a return at any point.

11 Again, I want to emphasize that your seed
12 stage fund will not be successful unless we are out here
13 creating good deals to go into that pipeline.

14 So, I will briefly mention my
15 recommendations to you but you can see those in detail
16 in the written testimony. In particular, I would ask
17 that we do allocate funds to commercialization
18 activities. I would tell you that we have existing
19 groups out here with incredible infrastructure in place,
20 so this will not cost additional overhead.

21 For example, every one of the 15 NYSTAR CATs
22 has a phenomenal industrial advisory board of experts
23 from industry helping us every day decide which deals to
24 fund. They are sitting there ready to be the purveyors

1 of additional funding to support more projects. But,
2 again we are sitting at pre-1980s level of funding. So,
3 I would say to you that commercialization funds could
4 easily be put out to RFPs at those centers that are
5 prepared to administer those without additional overhead
6 or administrative costs could apply. Those could be
7 RTDCs, CATs and the like.

8 Second, I would ask that in order to fund
9 these commercialization activities I do believe you do
10 not even have to incur additional budgetary costs. What
11 you can do is reallocate funds from non-strategic
12 investments.

13 For example, the innovation economy matching
14 grant program, even a few million dollars of that \$100
15 million program could make a huge difference in
16 commercialization activities. Again, you put an RFP out
17 to existing programs so there would be no new additional
18 overhead cost.

19 Third, I would ask that we please catch up
20 to other states in providing a match program for SBRI.
21 Since SBRI is not included in the ARRA funding, by
22 definition it is not eligible for our state's innovation
23 economy matching grant program.

24 I believe you should carve out part of that

1 program funding and make that an SBRI match program.
2 And I would also submit to you that that match should be
3 one to one to match industry standards or other state
4 standards. Minimally it should be a 50 percent match.
5 A 10 percent match, frankly, is not worth the return on
6 investment for either New York State administrative
7 costs or for candidates that have to apply to such
8 programs.

9 Finally, I would just ask you to please keep
10 an eye out that program consolidation and integration
11 does happen. I'm out here in the field every day and I
12 can tell you these programs do not work together. Most
13 of my time is spent trying to call people at other
14 agencies to get them to work with me on a company moving
15 through the pipeline.

16 So, I would suggest to you that, just like
17 SBIR programs have two levels of funding, a smaller
18 level and a larger amount, we should be using our
19 programs that already have infrastructure and can create
20 administrative efficiencies to consolidate our programs
21 that sit in separate buckets.

22 So, today, the CAT program, for example,
23 administers about a four figure to five figure level of
24 support. I have industrial advisory board and

1 infrastructure that easily could handle other funding
2 levels, and then our companies would not be forced to
3 try to navigate yet another bureaucratic process to try
4 to get the funding they need.

5 So, with that, I appreciate the opportunity
6 to testify to you. And I would just say to you that in
7 the past I compared building a new economy to the
8 process of raising an infant. You can't expect to
9 starve the infant even periodically or only give it one
10 kind of nutrient and actually expect it to thrive in
11 future.

12 So, I appreciate the opportunity to talk to
13 you about the recipe we need to get through the valley
14 of death. It truly is a pipeline approach.

15 Thank you.

16 CHAIRMAN KRUGER: Thank you.

17 CHAIRMAN FARRELL: Thank you.

18 We have one question from Mr. Gabryszak.

19 ASSEMBLYMAN GABRYSZAK: Thank you, Chairman.

20 Marnie, you talked about the valley of death
21 and funding for commercialization, which I think is very
22 important. I know I had the opportunity to visit not
23 only UB, the CATs and various other CATs, Centers of
24 Excellence.

1 As I mentioned earlier, I think there's
2 great work that's being done there. I think there is a
3 huge opportunity that exists for the state in terms of
4 job development by putting resources in that area in
5 helping those groups get to the valley of death, as you
6 mentioned.

7 From your expertise, from your knowledge of
8 working with UB at various other CATs throughout the
9 state, any idea -- I know you talked about the spin off
10 of about 45 jobs, 45 companies in western New York area.

11 In terms of the broader picture for the
12 state, any idea what that may mean in terms of
13 employment in terms of entrepreneurial opportunities?

14 MS. LAVIGNE: In terms of quantified
15 figures, every CAT is different. What I can tell you,
16 and I will applaud NYSTAR for having us be very
17 particular about the metrics, I would tell you this is
18 the most well documented set of programming, the CAT
19 programming, in terms of longevity and breadth and depth
20 of any program that exists today.

21 So, we do know that the overall return is
22 better than 20:1 return on economic impact across New
23 York State for all 15 CATs, which focus on several
24 different technology economic areas.

1 In terms of the breakdown on that, I don't
2 have that handy but could certainly could provide that
3 from NYSTAR. One thing I will say to you is if you take
4 our program, for example, we had over 110 new jobs in
5 the Buffalo, New York area last year just for the CAT.
6 It some ways that doesn't reflect the entire context of
7 what's going on.

8 There are other companies that maybe didn't
9 use the CAT program last year, but used it previous
10 years or in other non-project ways. We supported them,
11 reviewed business plans, etc.

12 So, I would tell you that the impact is
13 really many fold, but to quantify that, just be sure we
14 all understand new jobs are important but to get there
15 we need to see the venture capital dollars. So many of
16 our companies we saw literally tens of millions of
17 dollars in investment in our companies who were
18 benefitting from the fact that the CAT supported their
19 development of a prototype that convinced investors to
20 take that next step.

21 So, that certainly would be a much lengthier
22 conversation, but I think the best source for you would
23 actually be the NYSTAR report that was issued last year
24 that quantified that in great detail.

1 ASSEMBLYMAN GABRYSZAK: I'm Glad to see that
2 we are making investment in terms of seed money, in
3 terms of I think reversing the trend that we see in the
4 past in terms of funding being reduced. I think it's
5 important that we continue to fund the Centers of
6 Excellence and CATs because they do great work and I
7 think it augers well for the state in terms of job
8 development.

9 MS. LAVIGNE: I would just add: Regarding
10 this seed fund, I highly encourage you to let the
11 administration of that fund sit in the hands of the
12 experts. When I heard ideas about companies having a
13 certain revenue level, about them using the funds only
14 for R&D uses, that's what the CAT does. We support R&D.

15 The last thing you want to do is take an
16 equity based fund and restrict the use of those funds,
17 particularly because one of the things that we can't
18 fund at the CAT is business talent, and entrepreneurial
19 talent is one of the greatest gaps that we have besides
20 capital.

21 Good management team will always get funded
22 and it's extremely difficult for us to find that talent,
23 so, unless the seed fund can be used to support bringing
24 in good business management, I think you will less use

1 and less optimal outcomes of that fund.

2 CHAIRMAN KRUGER: Senator Stachowski.

3 SENATOR STACHOWSKI: Thank you for your
4 testimony. At your suggestions, if we could -- possibly
5 the administration twisted and turned a little bit and
6 we can put money together, would it be one revenue
7 stream for one place that accomplished help in the
8 valley of death or would it be in a couple of places?

9 MS. LAVIGNE: I would actually recommend we
10 don't keep putting it in more places. It's very
11 confusing.

12 So, for example, the technology transfer
13 incentive program has been a very important program for
14 the companies I work with, but I have to tell you it's
15 always been extremely confusing that they work with us
16 on a CAT grant and then they somehow have to figure out
17 how to use this other thing called a TTIP.

18 These companies don't have a lot of
19 employees. They don't have time to try to figure that
20 out. I would actually argue that trying to use
21 infrastructure such as ADDACAT to implement two levels
22 of funding, we then can very easily move those companies
23 to the next level, and that is how the SBIR program
24 works.

1 So, I do think we should take lessons from
2 the federal government in that that program already
3 makes it a more streamlined or bureaucratic process.

4 ASSEMBLYMAN STACHOWSKI: So, if you take the
5 money and put it into this SBIR program and then it
6 would get to where it needs to go.

7 MS. LAVIGNE: I actually think there are two
8 key things you could do that would be very simple. One
9 would be, first of all, put up the SBIR match dollars.
10 It can be administered by NYSTAR. If the federal
11 government's review board feels that a company's
12 application is good, those are outstanding review
13 boards, we don't need to revisit that deal. Fund that
14 deal to at least 50 percent, more appropriately 1:1.
15 That's one, and that can be administered centrally at
16 NYSTAR, for example.

17 The second thing is to actually create a pot
18 of money, possibly, from the innovation and economy
19 matching grant program to which appropriate
20 organizations across the state could apply to enhance
21 their funding.

22 So, as an example, our CAT program could be
23 one applicant and we would have to present to you how we
24 would spend those dollars. The idea is not to increase

1 our overhead. The idea is to give you a proposal of how
2 we will better address the valley of death with
3 additional funding.

4 SENATOR STACHOWSKI: I would like to thank
5 you for the last two comments, because some of us were
6 looking at a proposal and trying to figure out why, with
7 all these people putting this budget together nobody
8 realized that if you put the money in the SBIR fund, and
9 you have the match that you just doubled the money
10 because the federal government matches all that money.

11 So, we would have a much bigger bang and a
12 lot more impact in an area where we truly need it and
13 why that obvious solution was overlooked, I don't know,
14 but thank you.

15 SENATOR KRUEGER: Assembly?

16 CHAIRMAN FARRELL: Thank you.

17 SENATOR KRUEGER: Thank you very much for
18 your testimony.

19 Our next testifier will be the College of
20 Nanoscale Science and Engineering, Dr. Alain Kaloyeros.

21 Good afternoon.

22 DR. KALOYEROS: Good afternoon. Thank you
23 for the invitation. I am not going to read my entire
24 testimony.

1 CHAIRMAN FARRELL: Thank you very much.

2 DR. KALOYEROS: I am going to read some
3 excerpts, if I may, and then if you have any questions
4 if you have any.

5 I have with me Ed Coakley, who is the head
6 of the Nano Economics Constellation and Professor of
7 Nanoeconomics in the college. And Michael Venture, who
8 is the Vice President for Economic Development and
9 Business Outreach. In case you ask some tough questions
10 they will be answering.

11 University acknowledge as the next
12 industrial revolution -- starting on page two, skipping
13 the cover page. Nanotechnology is rapidly changing the
14 landscape where states, regions, countries, industries,
15 and society at large compete, thus presenting daunting
16 technical, economic and business hurdles, while
17 concurrently providing enormous opportunities for growth
18 and prosperity.

19 The application of nanotechnology across
20 diverse industries as information and computation
21 technologies, energy, biomedicine, transportation,
22 environment, communications, finances, smart healthcare,
23 and security provides game-changing solutions enabling
24 dramatic and profound improvements in how society could

1 increase and maximize its strained resources, optimize
2 and deliver services, and address and resolve increasing
3 economic challenges.

4 I'm going to skip now to line 28, the last
5 paragraph with your permission to talk about some of the
6 innovations in nanotechnology.

7 New and enabling nanotechnology innovations
8 include multi-purpose and densely-functional laptops,
9 desktops, servers, and supercomputers, ultra-fast and
10 tightly-secure telecommunications; smart interactive
11 computing; electronic high-definition three-dimensional
12 gaming -- as my 15-year would testify -- tether-free
13 automotive and consumer electronics; homeland defense
14 and security systems; and the part that's becoming the
15 biggest business for nano-technology: Chemical and
16 biological "system-on-a-chip" computer chip packages,
17 and architectures for environmental real-time,
18 closed-loop sensing, and control and healthcare
19 applications.

20 Our biggest and fastest growing business is
21 healthcare. Things like biomolecular sciences,
22 nanovaccinology, medical nanorobotics, nanomedical
23 biocompatibility, molecular medicine, and
24 nanosensor-based biochips for real-time diagnosis and

1 treatment of chronic and genetic biological diseases.

2 All those are part of nanotechnology.

3 It is these enabling innovations that have
4 propelled the nanotechnology industry to a dominant
5 technological, business, and economic position
6 nationally and internationally, with nearly \$2 trillion
7 in global revenue by 2015. By 2015 it is projected that
8 the nanotechnology industry will be the number one
9 industry in the world, bigger than, tourism, supporting
10 the creation of over 2 million new jobs in the US alone.
11 This is according to the National Science Foundation
12 projections.

13 In view of the tremendous technological and
14 economic implications of nanotechnology, New York State
15 has developed and implemented, under the leadership of
16 the New York State Assembly -- I'm preaching to the
17 choir -- a strategic investment policy to position
18 itself as the global leader in nanotechnology.

19 The state strategy centers on coordinating
20 and leveraging the intellectual assets and physical
21 infrastructure of its top-flight research universities
22 and global corporate giants to establish vertically
23 integrated, public-private partnerships in research,
24 education, and commercialization.

1 The crown jewel of the New York State
2 strategy is the nanotechnology "innovation ecosystem"
3 which partners global nanotechnology corporations such
4 as IBM, SEMATECH, GlobalFoundries, and the College of
5 Nanoscale Science and Engineering at the University at
6 Albany. This partnership has resulted in an estimated
7 \$20 billion in private sector investments across New
8 York, and the direct creation and retention of over
9 12,000 high paying nanotechnology jobs also across New
10 York State since 2001.

11 According to the Federal Bureau of Labor
12 Statistics and the American Electronics Association, the
13 average annual wage in New York per such job was \$84,000
14 in 2007. It's now I believe \$90,000 in 2009, nearly 50
15 percent more than New York's average private sector
16 wage.

17 Accordingly, the New York State
18 nanotechnology economic development paradigm is
19 currently driving over \$1 billion investment in wages
20 alone per year into the state economy. By 2015, the New
21 York State nanotechnology partnership is projected to
22 have created or retained nearly 20,000 nanotechnology
23 jobs in New York. This contributes over \$2.25 billion
24 per year in salaries and wages alone to the state

1 economy.

2 It is well documented that the effectiveness
3 and success of the New York State nanotechnology
4 "Acropolis", as referred to it, is best embodied by the
5 CNSE Albany NanoTech Megaplex, the most advanced
6 research and education complex of its kind at any
7 university in the world.

8 With over \$5.5 billion in investments
9 to-date, where every public dollar leverages nearly 5:1
10 in private funding, the 800,000-square-foot complex
11 supports over 1,000 contractors and suppliers across New
12 York, from Buffalo to New York City, and attracts over
13 250 corporate partners from around the world, and offers
14 the citizens of New York a one of a kind educational
15 experience.

16 In addition, the Albany NanoTech complex
17 houses the only fully integrated computer chip pilot
18 prototyping and demonstration line within 80,000 square
19 feet of Class 1 capable cleanrooms. More than 2,500
20 scientists, researchers, engineers, students, and
21 faculty work on site.

22 When the initiative was announced April 29,
23 2001 there was 71 people on site. Today there are 2,500
24 from companies including IBM, GlobalFoundries,

1 International SEMATECH, Toshiba, ASML, Applied
2 Materials, Tokyo Electron, Novellus, and M-W Zander.

3 With this backdrop, I would like with your
4 permission to go on to page 8, to talk about the next
5 phase of the initiative that we are putting in place.
6 Starts with the top of page 8, line 185.

7 The CNSE Education and Commercialization
8 Initiative. Leveraging the New York Innovation
9 Ecosystem for Statewide Economic Outreach.

10 The proceedings of the Council on
11 Competitiveness of the 2005 National Summit on Regional
12 Innovation noted that, "Improving a region's standard of
13 living requires steady growth in productivity and that
14 this growth increasingly depends on the capacity for
15 innovation to create competitive advantage.

16 A region's capacity for innovation rests on
17 more than just scientific discovery or idea generation.
18 It is a process that links together regional knowledge,
19 assets and networks to transform ideas, insights and
20 invention into new processes, products and services that
21 capture the global market share".

22 The Council also noted that, "...even as
23 innovation has globalized, the role of regions as the
24 critical nexus for innovation-based economic growth has

1 increased."

2 In light of these considerations and as part
3 of a cross-regional economic development initiative
4 first advanced by the New York State Assembly, CNSE is
5 deploying its extensive intellectual assets, state of
6 the art infrastructure, and network of private and
7 public partners to help formulate, tailor and support
8 technology development and economic outreach strategies
9 that are customized to specific regions of the state.

10 These strategies are designed to stimulate
11 innovation and education at local universities and
12 colleges, encourage and advance entrepreneurship, and
13 enhance regional business attraction and retention in
14 targeted high-tech industries.

15 Emphasis is placed on emerging
16 nanotechnology-enabled industries where each region
17 already possesses relevant assets that could be
18 transformed into a stable, diversified, and competitive
19 regional R&D and manufacturing eco-system.

20 These goals are greatly facilitated by the
21 action of November 18, 2008 of the SUNY Board of
22 Trustees, which tasked CNSE -- I'm going to skip that
23 paragraph and the next one. Basically, we are tasked
24 with a SUNY-wide economic development and education.

1 I would like to go to line 230 on page 9.
2 In accordance with these actions, CNSE has launched an
3 economic outreach initiative that focuses on
4 educational, business, and commercialization
5 public-private partnerships in targeted regions across
6 the state.

7 These partnerships integrate the educational
8 portfolios and business roadmaps of appropriate public
9 and private academic institutions, and leading
10 nanotechnology manufacturers and top equipment and
11 materials supplier's with CNSE's resources,
12 capabilities, and network to advance the best education
13 and training opportunities for the state's workforce,
14 and enable optimized technology development, highest
15 leveraged product prototyping, and fastest time to
16 market for the state's companies and corporations,
17 leading to high-paying job creation and retention.

18 One example of such targeted regional
19 education, commercialization, and economic outreach
20 partnerships is a computers chip hybrid integration
21 partnership -- amazingly enough, they called it chip --
22 between the SUNY Institute of Technology and CNSE.

23 Funded with \$92.5 million in New York State
24 capital investment as matching funds to what at the time

1 was \$133 million, it's more like \$190 million now of
2 IBM, SEMATECH, and Intel funding, CHIP creates a
3 computer chip R&D integration center located in Albany
4 coupled to a nanotechnology accelerator/business
5 incubator located at SUNYIT.

6 CHIP would create 200 new high tech R&D jobs
7 at CNSE, as part of the computer chip R&D integration
8 center, and 475 new high tech supplier and contractor
9 jobs within or in proximity of the SUNYIT nanotechnology
10 accelerator/business incubator. CHIP is supporting a
11 joint educational and training curriculum between CNSE
12 and SUNYIT to prepare the high tech workforce necessary
13 to support computer chip integration and deployment in
14 the state.

15 One of the engineers, architects, of this
16 initiative is sitting on the panel today.

17 Other examples include partnerships under
18 development with the Metropolitan Development
19 Association of Syracuse in the area of defense and
20 aerospace; the SUNY Downstate Medical Campus in the area
21 of nanomedicine and smart healthcare; and SUNY
22 Binghamton and SUNY Stony Brook in the area of renewable
23 energy. There are Discussions under way with the City
24 University of New York for a potential partnership in

1 green energy technologies.

2 Basically the bottom line is: Creating and
3 sustaining an innovation-based economy across New York
4 is realistic and achievable given the presence of
5 diversified and enabling educational, research, and
6 business outreach assets in every region of New York.

7 These assets could be evolved into a
8 coordinated critical mass for innovation and deployment
9 that integrates three anchor components: Intellectual
10 knowledge; physical resources, and networks, as in
11 partnerships, targeting nanotechnology-enabled growth
12 industries.

13 Basically the point is there has been a lot
14 of discussions of replicating CSNE in other regions of
15 the state. This is a great idea. However, a \$5.5
16 billion investment should also be expended and used to
17 help advance technology development and economic
18 outreach across the state.

19 Thank you.

20 CHAIRMAN FARRELL: Thank you.

21 SENATOR KRUEGER: Thank you very much.

22 CHAIRMAN KRUGER: Theresa Mazzullo, Excell
23 Partners.

24 MS. MAZZULLO: Good afternoon, everyone. My

1 name is Theresa Mazzullo and I am the CEO of Excell
2 Partners, and I'm here this afternoon to speak to very
3 specifically about what we consider to be perhaps one of
4 the most important programs within this year's budget,
5 which is the New York State seed fund.

6 I will be brief, but would like to begin my
7 remarks by supporting many of the comments that were
8 made to you earlier today by Dennis Mullen; Marnie
9 Lavigne who just recently spoke, as well as Executive
10 Director Ed Reinfurt, all of whom, I think, spoke very
11 eloquently and brought up some very important points
12 about the seed fund.

13 By way of background and introduction to you
14 of Excell, we actually provide preceding seed stage
15 funding for high tech start up companies in the upstate
16 region currently.

17 We were formed in 2005 as a partnership with
18 the University of Rochester and the State of New York to
19 support upstate regional economic development. Our
20 mission is bridge the funding gap that you've heard so
21 much about today, and prepare companies for the next
22 major round of funding.

23 Since 2005, Excell has been at the epicenter
24 of seed funding in upstate New York. So, today, when I

1 talk to you about some of the issues that we are facing,
2 particularly from an upstate New York perspective, we
3 are speaking to you from experience and from documented
4 research perspective.

5 And in fact, I would like to thank
6 Assemblyman Gabryszak for speaking directly from a white
7 paper that Excell was responsible for producing. And it
8 will save me time in a few minutes because I was going
9 to quote those exact same statistics.

10 In the next few moments what I would really
11 like to do is to high light the problems, discuss
12 briefly the solutions of what we see happening in
13 upstate New York, as I say, both from a research
14 perspective as well as from our experience over the last
15 four years.

16 From our research we know that New York
17 State has extraordinary universities and academic
18 research capabilities and as has already been cited
19 total academic spending is \$4.5 billion, which places
20 New York number two in the nation for university based
21 R&D, second only to the State California.

22 We conduct more R&D than 48 other states.
23 Despite the fact that New York State is number two in
24 R&D, second only to California, New York State receives

1 only four percent of the venture capital spending
2 nationwide, while California receives 48 percent.

3 We have a problem and that problems is that
4 we have been unable to transfer the R&D, the immense
5 amount of R&D that is currently being done, to the
6 marketplace.

7 Another problem that we have here in
8 particularly upstate New York, and I think all over the
9 state, is an insufficient ecosystem. We lack the
10 necessary capital connections in network to be effective
11 and to commercialize that R&D that I just spoke of.

12 Basically, I see us lacking in three key
13 areas, one of which is the entrepreneurial ecosystem.
14 Entrepreneurship does not exist in a vacuum. Other
15 critical elements of the educational arts, such as
16 educational programs, technical support services,
17 mentoring and the overall economic infrastructure of any
18 particular region are essential to the overall success
19 of a start up company.

20 Marnie Lavigne mentioned her own programs,
21 and how critically important that she be funded and be
22 in a position to provide the necessary technical support
23 services that precede the seed stage funding that we are
24 speaking of here.

1 Truly, when you are talking about innovation
2 and funding innovation, it is an iterative process.
3 There's funding required at every level in the
4 continuum. At the lab, certainly at the research and
5 development, at the lab, coming out of the lab in the
6 pre-seed.

7 You need to find out is it a product or is
8 it a business. If it's a product it will probably go
9 back into the university, be licensed out to Johnson and
10 Johnson, or whatever. If it's a business then it starts
11 the project for commercialization, where we look at it
12 and give it an opportunity analysis and to cite what the
13 market potential is.

14 These are the kinds of activities that take
15 place in the pre-seed and seed stage area. In the area
16 for the seed alone, you're talking about more formation,
17 whether companies are actually putting the management
18 team together, developing commercial grade protocol
19 prototype, and actually going into business and
20 operating on their go to market strategy.

21 So, you can see it's an iterative process
22 around a strategic investor that will take that company
23 out more broadly in the scale of the marketplace.

24 The second problem we have in our upstate

1 region is management talent. Marnie alluded to this as
2 well. It is perhaps the single biggest problem we have
3 in our region is managing the management to the
4 technology.

5 What we need is for our region to develop a
6 system to identify, track and connect that talent with a
7 technology talent and such a system requires resources.
8 Finally, we need financial capital.

9 One of the other problems we see in our
10 region -- and, again, we know this to be statewide --
11 is, quite frankly, companies are leaving the State of
12 New York as a direct result of the challenges that we
13 are seeing here and that I just spoke to you about.
14 Throughout the region, we have companies that are
15 floundering in the valley of death and we are seeing too
16 many companies leave the State of New York to go to
17 other states who do have more vibrant, entrepreneurial
18 ecosystems.

19 From Ithaca alone, we can cite six Cornell
20 spin out companies that have left New York for
21 California and Massachusetts. These six companies, all
22 of which started in New York, collectively raised \$131
23 million and are today headquartered outside of the State
24 of New York.

1 Now, imagine what that statistic would be
2 were we to do a survey of our university tech transfer
3 agents across the state. We started doing one and have
4 some anecdotal, but it's not a pretty number.

5 So that is the one statistic, I think, that
6 is not been -- a fact that has not been brought up
7 today, so many of the other things I have said were.
8 Echoing comments and sentiments that have been brought
9 up, but the fact that at the end of the day we are
10 losing potential to other states is very important for
11 us to try to keep in mind, along with all the other
12 information that we have been talking about.

13 Our solution is the New York State seed
14 fund. And, based on our experience and what we have
15 seen other states do and our research, and looking at
16 other states, state supported funds, we found that there
17 are three or four critical elements that mark the
18 success of a state supported fund.

19 It should be large enough to make a
20 difference; regional in scope; required participation in
21 co-investment by the private sector; provide latitude to
22 support the ecosystem; and it should seek to become
23 self-sustaining with a profit motivated mission.

24 Those are the elements that make for a

1 successful state-supported fund. Let me say that, to
2 the extent possible in the four years that Excell has
3 demonstrated its ability to operate as a seed fund, and
4 we have the statistics to bear that out, since our
5 inception in 2005 Excell has invested \$2.4 million in 21
6 companies all over the upstate region -- Ithaca, Geneva,
7 Rochester and Buffalo -- in the fields of biotechnology,
8 medical devices, industrial, energy, electronics and
9 consumer products.

10 Excell's average size investments are
11 matched more than four to one by the private co-investor
12 capital, for a total average seed round of about
13 \$670,000 per company. Our total co-investor and follow
14 on funding by our VCs, when I saw follow-on funding, for
15 our portfolio of companies is currently \$58 million for
16 a 24 to one leverage ratio.

17 To date, 139 jobs have been created with
18 much potential for future growth. So, you might say in
19 the jargon for the commercialization process that we
20 have already been a beta site for a state supported
21 fund, and with appropriate funding and design I think we
22 have shown that a seed fund concept for the State of New
23 York can become a commercial success for New York State.

24 Currently, the Assembly has a bill, which

1 was referenced earlier, called the Seed New York
2 investment fund; and with some possible exceptions,
3 minor, the language that is proposed in that bill is
4 sufficient to create a framework and actually
5 incorporates the four points that I talked about earlier
6 in that it's regional in scope; it requires private
7 sector match for investments; it's specific in its
8 requirement for reporting and accountability; and most
9 importantly, the Assembly bill allows for the management
10 and decision making at the regional level.

11 So, in closing, I would say to you that in
12 the quest for a new economy that there is no question
13 but that innovation is the answer. And by definition,
14 when we talk about innovation we are talking about new
15 growth.

16 We are talking about new ideas being
17 developed into new businesses. We're talking about new
18 jobs; new sources of revenue; huge economic activity
19 both from the public and the private sectors and the
20 communities.

21 Innovation is about real growth, and real
22 growth is sustainable and it's long term. By any key
23 measure of an innovation based economy, high tech start
24 ups are the key. Your support of the New York Seed Fund

1 is nothing short of foundational.

2 You hold the key for the economic future of
3 the state and I would strongly encourage your support of
4 this fund. And I want to thank you very much for the
5 opportunity to present this to you today.

6 Happy to take any questions.

7 CHAIRMAN KRUGER: Thank you.

8 We have been joined by Senator Kevin Parker.

9 Thank you.

10 Nathan Tinker, NY Biotechnology.

11 MR. TINKER: Good afternoon. Thank you. My
12 name is Nathan Tinker. I'm the Executive Director of
13 the New York Biotechnology Association.

14 What I have to say today follows on a lot of
15 what's been said this morning, especially by Theresa
16 just now around the Excell report, which, I think, if
17 you haven't read it, is a vital piece of information to
18 look at and get some of the statistics about the
19 differential between what's going on in New York
20 investments and what's going on elsewhere.

21 That's a key piece. I am going to mention a
22 couple of the other details about that as we go forward
23 here, but I wanted to point that out.

24 First of all, let me commend both the

1 Governor and the committee for investing a lack of seed
2 capital available to New York entrepreneurs. I must
3 also point out, however, that today more than 25 states
4 and Puerto Rico report supporting one or more seed
5 investment funds.

6 Some of these are specifically focused on
7 life sciences, such as Pennsylvania's life sciences
8 greenhouses, which made investments of between \$200,000
9 and \$500,000 in early stage life sciences companies or
10 the Puerto Rico bioscience investment fund at \$250
11 million, fund that invests in bioscience companies.

12 We have already talked a bit about where New
13 York stands in terms of NIH and -- NIH investment, NSF
14 investment and the great things we do there on the R&D
15 and early stage research development fund, but we lack
16 severely when it comes to translating that multi-billion
17 dollar annual R&D investment into commercial
18 opportunity.

19 I'm sure you've seen the statistics that
20 Excell Partners released earlier this year. Of those
21 statistics, the one that stands out to me is that 91
22 percent of New York based venture capital is deployed
23 outside of New York State. Again, 91 percent of in
24 state capital goes out of state.

1 Theresa was also talking for a few moments
2 about the number of companies that leave New York. She
3 was talking about Ithaca particularly. We've done an
4 anecdotal study of the bioscience companies in New York
5 State, and found that of the biotech and life sciences
6 companies that are founded in New York in the last ten
7 years or so, only about 20 percent of those stayed in
8 New York once they reached a certain level of growth.

9 So, there's this mass migration of companies
10 out of the state once they get beyond the early stage
11 level. There's also the big discrepancy between
12 investments in California locally compared to what
13 happens in New York. New York VCs invest about \$250
14 locally in 2007; California VCs invested about \$6.5
15 billion locally in 2007.

16 New York VCs explain the discrepancy by
17 saying they cannot find enough investable companies in
18 the state. The fact is that New York often did not have
19 access to adequate capital financial backing in the
20 earliest phases to propel them to a level of maturity at
21 which venture investment is viable.

22 The discovery and development of new
23 technologies is a very expensive process and it can cost
24 millions of dollars. What many people do not realize is

1 that there are major costs incurred after the initial
2 R&D has been completed.

3 These include the cost of assessing
4 competition, the length of market, the price points for
5 competitive advantage, developing a prototype, a kind of
6 marketing and sales plan scaling up for manufacturing.
7 Finally, actual production, distribution, sales and
8 marketing costs must be undertaken as well. Sufficient
9 capital must be available to fund these activities in
10 order for business growth and economic development to
11 occur.

12 All these needs apply to all technology
13 based companies. Many bioscience companies, at least
14 those involved in biomedicine, need to access larger
15 amounts of capital for longer periods of time to cover
16 the development process for products that must go
17 through clinical trials and obtain regulatory approval
18 before they can be introduced into the marketplace.

19 A typical biopharmaceutical therapy takes 10
20 to 15 years of development and requires a billion or
21 more dollars of investment. Yet, New York offers few
22 sources of funding to bridge the gap between the points
23 of which, one, a discovery has been identified and
24 demonstrated; and two, a business case has been

1 validated and venture or other debt capital can be
2 obtained.

3 It is also difficult to obtain seed and
4 early stage investment because venture funds, as they
5 have become larger, tend to make larger later stage
6 investments. As a result, angel investors have also
7 moved downstream, making more post seed and later stage
8 investments than previously.

9 So, in addition to the difficulty of
10 obtaining translational research and
11 precommercialization of funding, firms are facing a gap
12 at the start up phase where they need half a million to
13 \$2 million.

14 With that in mind, I would like to consider
15 quickly the two fund proposals that are put forward.
16 Proposals are similar in their overall goals but
17 different execution. They are both, to be honest, a
18 little vague about the exact dollar investments and the
19 time frames. In order for such an initiative to be
20 successful, it is vital that the fund be large enough to
21 make a difference, as Theresa mentioned, and have a life
22 time long enough to be successful.

23 I could point to Pennsylvania, Ben Franklin
24 Fund, which has been active for about 25 years. I think

1 the statistics are in the Excell report as well. Return
2 on that lengthy investment has been considerable. For
3 just the four year period between 2002 to 2006,
4 Pennsylvania garnered more than \$517 million in
5 additional tax revenue and boosted the Pennsylvania
6 economy by \$9.3 billion, and generated over 10,000 job
7 years, thanks all to the Ben Franklin Fund investments.

8 Along with its longevity, the Ben Franklin
9 Fund's key characteristic is its decentralized format
10 that drives investment out of four regional centers
11 according to population and critical mass of R&D.

12 The Assembly seed fund proposals provides
13 for this sort of decentralized strategy; unfortunately,
14 the Governor's plan centralizes the process within ESDC,
15 and creates a system where functionally a state entity
16 makes the decisions. Interestingly, the Governor's own
17 economic development task force recommended against such
18 a strategy.

19 And finally, the fund size itself must be
20 considered. As Theresa noted, the best programs are
21 large enough to make a difference. And it must be right
22 sized for the entrepreneurial and finance environment
23 within the state. We must ask whether either the
24 Governor's or the Assembly's proposal is right sized for

1 a state within the geographic scope, academic resources
2 and business opportunity of New York.

3 However, the Governor and the Assembly are
4 to be lauded for calling for investment in seed capital.
5 Both plans have some significant challenges, particular
6 in terms of the fund's proposed size and lifetime.

7 I believe that there are other methods over
8 a longer period that we could invest in that we could
9 eventually leverage between state, private and other
10 sources up to \$400 million over a ten year period that
11 would be used both in terms of pre-seed, seed stage, and
12 as Marnie was talking about, the commercialization
13 process as well.

14 While neither proposal is perfect, the
15 choices at hand in the Assembly seems to have worked out
16 a more effective blueprint for creating and deploying
17 seed and investment, one that emphasizes decentralized
18 administration and shared funding levels.

19 By creating a state sponsored seed fund, New
20 York will have to take a vital first step in
21 invigorating the economic opportunity offered by new
22 technologies, but should not be construed as a last
23 step. The state must look forward to a multi-year
24 policy agenda to address funding for

1 precommercialization and proof of concept activities,
2 targeted seeded commercialization funds, and
3 implementing policies that encourage private investment
4 to early stage and later stage venture and corporate
5 capital.

6 This includes good business policy because,
7 given the increased compensation between the states for
8 high tech jobs, a positive business environment for
9 employers who foster such jobs is critical if
10 biopharmaceutical companies, both small and large, are
11 to succeed and grow in New York.

12 I thank you very much for the opportunity.

13 CHAIRMAN KRUGER: Thank you.

14 SENATOR DEFRANCISCO: Very quickly. I'm
15 just listening here to all the speakers of something
16 that was mentioned by the last speaker kind of struck me
17 where the Ithaca based companies moved out of the state
18 after getting substantial investment from the state, and
19 the statistic that you gave is mind boggling, that 91
20 percent of New York State based venture capital is
21 deployed outside of New York State.

22 I would like your opinion on this. I assume
23 that you agree that businesses that start up, after they
24 start up they want to make money, expand and make more

1 money. That being the case, isn't the fact that we are
2 so overly taxed, whether property, income or whatever
3 else, energy costs are so high, and all these other
4 things that are not competitive to other states in New
5 York State, that we could be spending a lot of money to
6 create a lot of companies in other states, and have our
7 venture capital go out of the state.

8 Unless we fix the competitive nature of the
9 State of New York nothing is ever going to change.

10 MR. TINKER: Absolutely. I think there are
11 a couple of examples you can kind of look at recently
12 that speak to that.

13 Owenside Pharmaceuticals, for example, which
14 was based out on Long -- well, it is still based out on
15 Long Island but is now moving to Westchester, it was a
16 battle on many fronts keeping that company in New York.

17 And part of it was the tax situation, and
18 the cost of living situation. All of those issues
19 weighed heavily on that decision. And we were fortunate
20 that we had management there that wanted to stay in New
21 York and was willing to negotiate to that end, but I
22 think that that's indicative of the longer term and
23 larger problem we have.

24 That as these companies grow out of the,

1 say, 50 to 70 percent size range, it no longer is viable
2 to stay in New York given that set of economic
3 circumstances. It's much easier to move to a North
4 Carolina, a Texas, a Michigan, an Oklahoma, where the
5 incentives are enormous to bring in in the first place
6 and it's a relatively easy move because at that stage of
7 the company you are still not a manufacturing phase.

8 Physically your asset is your patents and
9 your ideas. Those are easily transferred and I think
10 that's one of the key reasons that we don't keep those,
11 because it's easier to move ideas out than it is to move
12 manufacturing out.

13 CHAIRMAN KRUGER: Thank you.

14 John Jennings.

15 MR. JENNINGS: Thank you, Mr. Chairman,
16 committee members, for inviting me to speak. It seemed
17 that what this hearing was lacking was an attorney to
18 come and talk about tax policy. So, I'm here for you.

19 The others have spoken at length about
20 various economic programs, various ideas, larger
21 philosophical points. I want to focus my remarks on a
22 relatively modest program that the state already has in
23 existence that I think does a very effective job of
24 helping the small, early stage and medium stage

1 companies both grow and stay in the State of New York.

2 It's no surprise that the state is focusing
3 in many arenas on the sort of high tech and emerging
4 jobs because, at the end of the day, these jobs tend to
5 pay more and they have significant indirect economic
6 impacts when you are talking about high tech and
7 bioscience, the sort of spending that these companies do
8 help the other companies and help the region generally.

9 And so this was one of the focuses of the
10 Governor's report was how is it that we can better get
11 these jobs and get these companies to stay here in New
12 York.

13 Now, the Empire Zone Program that's being
14 phased out, as some of the other individuals have talked
15 about today, and the Governor has proposed a new
16 Excelsior job program but, as others have mentioned, the
17 sort of minimum job requirement is 50 jobs. And there
18 are -- this really doesn't address the smaller emerging
19 and growing medium sized companies that we already have
20 within the state.

21 And that's why I want to focus your
22 attention on an existing program, the qualified emerging
23 technology company tax program that already exists and
24 is geared for that very thing. It's especially crucial

1 as we are facing a lot of competition from other states
2 and other countries.

3 And it's wonderful that attention is being
4 paid to this, and recognizing that the state does have
5 the fundamental building blocks that's going to be
6 necessary to spur these high tech jobs.

7 The \$4 billion or more in research and
8 development here in the State of New York is one of the
9 key fundamental building blocks, but we need to focus
10 also on access to capital, which seems to be one of the
11 major hurdles that these small emerging companies are
12 facing.

13 Traditional tax credits don't really help in
14 this situation because many of these companies don't
15 have a profit and they are not going to have profits for
16 several years. And it's hard to pay the bills with
17 stacked up carried forward tax credits that aren't going
18 to do any good if the company ends up folding.

19 I know Assembly Schimminger has a piece of
20 legislation that would seek to try and change how these
21 carry forward tax credits work, but one of the great
22 things about the qualified emerging technology company
23 tax program is it gives refundable tax credits to
24 businesses that are investing in their own growth here

1 in New York.

2 So, in other words, if a company that
3 qualifies under the credit spends money on its own
4 research and development, its own facilities, training
5 its own people, it gets a refund check that's very
6 valuable and very helpful, especially at the smaller
7 stages of development.

8 Now, I will hold off on giving the more
9 complex details of the type of companies that apply and
10 the type of requirements that are set up in the
11 legislation because it's already set up and in my
12 testimony there's additional detail there.

13 But I do want to focus on two parts of the
14 QETC program. There's a couple different credits that
15 are part of it. First, the facilities operations and
16 training credit, which has been one of the most
17 successful parts because it gives that refundable credit
18 to these businesses for research and development,
19 research expenses, and training expenses for workers if
20 they go to New York colleges and universities, which I
21 think is an excellent way to spur our own higher
22 education and the partnership with these companies.

23 Now, it's a great program but there are two
24 things, I think, that need to be addressed. First, the

1 program is set to expire the end of next year and it
2 really needs to be made permanent.

3 The small companies, the emerging companies
4 that are building here in New York need to know that
5 they can count on these sort of programs so that they
6 will, when they face that first growth state when they
7 are trying to make a decision whether to expand or to
8 pick up and move somewhere else, if they know that these
9 programs are going to be in place and they can take
10 advantage of them, it's very beneficial to them and we
11 need to make the program permanent.

12 Second, I think the program should be
13 enhanced, and right now it's capped at \$250,000 a year.
14 I think it should be expanded to make it more
15 competitive with programs that are already in place in
16 many other states, such as Pennsylvania, Washington,
17 Maryland, North Carolina, and I think it can do a
18 significant amount of good.

19 Our last legislative cycle, Senate bill 3430
20 was introduced and it sought to accomplish these goals,
21 and I would commend the members of the panel to take a
22 look at that legislation and perhaps use some of those
23 proposals.

24 The second aspect of the QETC tax program

1 that I wanted to address is the capital credit. This
2 goes to what Theresa, Nathan and some of the others have
3 talked about. What these small companies need is
4 investment from outside, and the tax credit as it
5 currently operates gives a ten percent credit if an
6 investor holds on to their investment for four years, an
7 increased tax credit if they hold on to it for nine
8 years.

9 And what history has shown is that the time
10 frames are just too long from a practical standpoint.
11 Investors need much more flexibility especially in a
12 highly volatile world with these small emerging
13 technology companies. And predictably, if you check
14 with the Department of Budget, these credits have gone
15 practically unused. And so the commendable underlying
16 purpose of creating this tax credit has gone
17 unfulfilled.

18 Now, Senator Valesky and Assemblyman Morelle
19 have sponsored legislation this session that would make
20 the credit much more competitive, make it much more
21 effective in what it's trying to do, which is get
22 outside investors to invest in these qualified emerging
23 technology companies.

24 In closing, I would recommend that the

1 members of this committee read a recent report that came
2 out that was published by the Biotechnology Industry
3 Association, and it's called the State Legislative Best
4 Practices in Support of the Bioscience Industry
5 Development.

6 It does a very nice job of high lighting
7 sort of the best practices that they found around the
8 country, the sort of programs and tools that states have
9 used to grow high tech and bioscience companies.
10 Unfortunately, nothing that New York has done, other
11 than the many programs New York has implemented, ended
12 up on this list.

13 But I really think that enhancing the
14 existing QETC tax credit program would go a long way
15 towards positioning New York to be much more effective
16 in doing this very thing.

17 Thank you again very much for the
18 opportunity to testify. I would be happy to take any
19 questions or speak further if you would like.

20 CHAIRMAN FARRELL: Just one comment, thank
21 you.

22 The earlier person who spoke -- I didn't
23 respond or say something -- but just in your talking I
24 thought of something which happened to me many years ago

1 when I was traveling around Rochester and at the time
2 Kodak was going down and they were getting rid of their
3 product, their stores, their large areas which they were
4 renting, selling, whatever they could do.

5 And I was talking to a person who was
6 creating a new company there, doing micro screws, things
7 like that. Goes in the glasses, stuff like that.

8 We talked about why they were staying in New
9 York State and they told me the story about going to
10 North Carolina and they were giving them this, they were
11 giving them that, and they were giving them everything
12 else.

13 And finally they were all set to go along
14 and he said to them, by the way, do you teach nano in
15 your schools? And they said, we don't know. Hold on.
16 They called the Governor. The Governor didn't know.
17 They called the Chancellor. They said, no, they don't,
18 but they can have it up in six weeks, six months.

19 He realized that the time that he uses,
20 that's all he used is those engineers, and he could name
21 five schools in New York State that did it, so he could
22 get people constantly.

23 Nothing in your discussion that I heard, or
24 maybe I wasn't listening well enough, talked about how

1 education is so important to this. One of the reasons
2 we get these companies is because we do have people that
3 are there, and you don't have to have them come down to
4 move in. They live there now and they are going to our
5 education system.

6 And when we talk about tax cuts and
7 everything else, we should also talk about the fact that
8 if we're making it harder for these kids to get an
9 education we're going to start cutting back on the
10 amount of available people that we have there.

11 MR. JENNINGS: You are absolutely right, and
12 that is one of the tensions, because at the end of the
13 day, one of the other fundamental building blocks that
14 we do have in State of New York is a highly educated
15 workforce.

16 You talk about the Rochester area. That's
17 where I am from. I mean with all the institutions of
18 higher education and the quality of education we are
19 getting, one of the things we do benefit from is we have
20 these potential workers.

21 If we -- the idea is the more of them that
22 would stay because there would be jobs the better off we
23 all would be. You are absolutely right. One of the
24 benefits we do certainly have is a result of the

1 educational institutions and the educational spending.

2 CHAIRMAN FARRELL: And a lot of those states
3 that are -- I mean, they come here looking for our
4 people because they know the right thing, right to work,
5 a whole bunch of stuff they can say to get people to
6 come down, but they can't match our education system and
7 we don't play that up enough and we don't work closely
8 enough between the businesses and the schools.

9 CHAIRMAN KRUGER: Any questions?

10 Thank you, Mr. Jennings.

11 We have a panel in support of film
12 production tax credits.

13 Good afternoon, everybody.

14 MR. O'DONNELL: Thank you. My name is Tom
15 O'Donnell, Secretary/Treasurer Local 817. Represents
16 transportation workers and television and motion
17 pictures.

18 I will illustrate the effect of the tax
19 credit program as simply as possible. In 2003, without
20 the film tax credit, 650 Teamsters worked 53,000 days in
21 T.V. and film. \$42.7 million in wages and additional
22 \$1.1 million of pension and welfare contributions.

23 In 2005, the first full year of the tax
24 credit program, 890 Teamsters worked 79,000 days,

1 earning \$58.2 million, an additional \$14.5 million in
2 pension and welfare contributions.

3 In 2009, where the tax credit was at the
4 elevated 30 percent of below the line costs, 1166
5 Teamsters worked 107,000 days, earning \$91 million in
6 wages and an additional \$24 million in pension and
7 welfare contributions. And we, the Teamsters, are just
8 a small slice of the employment pie.

9 I wanted to emphasize that the Empire State
10 tax credit program is modest in comparison to other
11 competing states and countries, but is one that makes
12 the most sense. It is applied only to below the line
13 costs, such as the people that the Teamsters represent,
14 and not high priced actors and producers.

15 If you were to ask me what would be the
16 effect of not funding the film tax credit program we
17 would need only to look at today. The \$350 million
18 appropriated for the program last April, which is 112
19 T.V. and feature film projects, which will spend over
20 \$1.7 billion, has committed its last dollar this last
21 January 15th.

22 Employment is already in decline. We are
23 now entering the season for T.V. pilots, the life blood
24 for continuing episodic television. Two years ago we

1 shot 19 T.V. pilots in New York. This season we will
2 shoot no T.V. pilots without the assistance of the film
3 tax credit program.

4 New York can compete with any locale in the
5 world but without the Empire State film tax credit
6 program we are simply not competitive.

7 Thank you for your past support and your
8 future consideration.

9 CHAIRMAN KRUGER: Thank you.

10 MR. STEVENSON: Mr. Chairman, Vans
11 Stevenson, Senior Vice President of Government Affairs
12 of the Motion Picture Association of America. I think
13 you all know we represent Disney, Fox, SONY, Paramount,
14 NBC, Warner Brothers, CBS as an associate member. All
15 of our companies are strongly based in New York City and
16 I think you all know that we do the lion's share of
17 motion picture and television production.

18 Just to add on to what Tom has said, in
19 addition to the \$1.8 billion that was invested by 112
20 projects that were the result of the 350 million that
21 you all appropriated last April, there were 32,000 jobs
22 that were created during that period of time.

23 In addition, of the 350 million, according
24 to an analysis that we just completed and funded with

1 the New York film office, 679 million in total state and
2 local taxes over that production period were also
3 generated, according to the analysis that was completed
4 by Ernst & Young.

5 This is crucial state revenue, we believe,
6 that will help, that is desperately needed at this
7 point. The new program that's being proposed by the
8 Governor has a three year deferral mechanism that allows
9 for an even greater front load of revenues back to New
10 York.

11 As was indicated by Tom also, the 350
12 million appropriated has now been fully invested and
13 this program is in desperate need of being put back on
14 line once again.

15 We are concerned. As companies, we want to
16 stay in New York City but we have a lot of pressure on
17 our companies right now in terms of budgets. You have
18 all been reading about the record box office that the
19 companies have had this year. The lion's share of our
20 revenue to develop motion picture and television
21 programs comes from DVD sales, advertising revenue, and
22 television and license fees.

23 Those have all suffered in the last couple
24 of years. Despite some very well financed motion

1 pictures, the tax credit is a major thing that our
2 companies look at when they decide where a project is
3 going to be located. Right now more than 40 states have
4 production tax credit programs. Many of these are
5 strongly competitive with what New York has had. New
6 York is demonstrating that it's attracting a large
7 number of programs based on the appropriation.

8 Canada, for example, has a combined 35
9 percent credit that also covers Ontario -- Toronto is
10 well equipped with crews. As we all know, prior to 2002
11 a lot of productions were there. Michigan has a 42
12 percent credit. Connecticut, Pennsylvania,
13 Massachusetts, Georgia, Illinois, all have comparable
14 credits to New York. Even California proved that it can
15 keep productions in Los Angeles with the credit they
16 have in place last year.

17 We are very sensitive to the budget
18 situation in New York, but we believe that this
19 particular program is a program that has a demonstrated
20 economic stimulus. And I think this committee, the
21 legislature and the Governor, are to be applauded for
22 the continuation of this program and the jobs that it
23 creates.

24 Thank you very much.

1 CHAIRMAN KRUGER: Thank you.

2 MR. FORD: Good afternoon. My name is John
3 Ford. I am President and Business Manager of Motion
4 Picture Studio and Council Local 52. Our local
5 represents grips, electricians, property men, sound,
6 video, set construction of the actual motion pictures,
7 television and commercial productions.

8 On behalf of the motion picture and
9 television labor unions, I would like to thank you first
10 for the opportunity to testify in support of the
11 Governor's proposal, and to thank you for your past
12 support of our industry.

13 I'm going to be brief. The Empire State tax
14 credit, for me, is all about jobs. Without the tax
15 credit, companies trying to figure out where to shoot
16 their films will seek out the least expensive venues.

17 As has been stated, 37 to 40 other states
18 have those productions. I can tell you personally that
19 Atlanta, Georgia is booming where they had no industry
20 only a couple years ago, as is Michigan.

21 Just two quick examples for my union workers
22 in local 52. In 2004, the first year the tax credit was
23 enacted, gross wages paid to my members was \$195
24 million. By 2006, those numbers increased to \$289

1 million; and in 2009, those numbers went to \$413 million
2 in gross wages. This is just local 52, excluding other
3 unions and guilds.

4 Secondly, local 52 has taken hundreds of new
5 members as a result of the tax credit program as well as
6 provided employment to many other New York entertainment
7 technicians who are suffering high unemployment due to
8 the downsizing of Broadway. This also includes hundreds
9 of grips and carpenters employed in shops throughout
10 Westchester County and the Hudson Valley.

11 And we are also working in conjunction
12 currently with the Brooklyn Workforce Development
13 Corporation, as well as the Wounded Warrior Foundation,
14 to provide training to veterans and those of ethnic
15 backgrounds to maintain a diversified work force going
16 forward.

17 In closing, I would like to thank you for
18 your past support and for the opportunity to testify in
19 support of the Governor's budget that, if adopted, will
20 continue to provide thousands of additional jobs for New
21 York State residents.

22 Thank you.

23 CHAIRMAN KRUGER: Thank you.

24 CHAIRMAN FARRELL: Is your union the one

1 that does the sidewalks, the parking? I have some
2 ladies that want to talk to you. They all love the
3 films, they love the tax credits, but they would like
4 you not to take up their space.

5 MR. KESNER: Good afternoon. My name is
6 Gary Kesner. I'm Executive Vice President of Silvercup
7 Studios in Mile High City. Joined by Tracy Capernan,
8 who is the Vice President of Kaplan Astoria, and my
9 testimony is on behalf of both of us.

10 You have my written testimony, and a lot of
11 other people want to speak. I just want to touch on a
12 couple of points in terms of how important this credit
13 is on a very localized economy.

14 In addition to all the jobs, Kaplan Astoria
15 has just completed the construction of a new \$22 and a
16 half million studio and support facility on its Astoria
17 campus, which will be opening up shortly.

18 The project created 325 construction jobs at
19 a time when new construction in the city had come to a
20 halt. Due to the industry's growth and since the tax
21 credit program was initiated, Silvercup has invested \$10
22 million in Kaufman and an additional \$3 and a half
23 million in new equipment to upgrade to meet the needs of
24 the industry.

1 We also take great pride in providing jobs
2 for local residents. Our staffs reflect the rich
3 diversity of New York with more than 15 percent coming
4 from ethnic and minorities.

5 Silvercup has been especially pleased to
6 participate as one of the training facilities for the
7 Made in New York reduction assistance training program.
8 Although we are in Queens, this program is managed by
9 the 5th Avenue Committee from Brooklyn.

10 Since 2006, this program has trained and
11 placed almost 200 young New Yorkers in the film and
12 television production industry. 98 percent of the
13 participants in that program have been minorities.

14 I was listening earlier to the testimony and
15 there was questions about the state's programs in terms
16 of small business. And this program, while providing
17 many jobs in the industry, also has a tremendous effect
18 on the small businesses in the community.

19 We really serve as an economic development
20 engine and catalyst for local communities. The lumber
21 yards, the hardware stores, the caterers, the trucking
22 companies, all of them are in the western Queens
23 neighborhood where Kaufman is and where Silvercup is.
24 They all employ local New Yorkers and they all pump

1 money back into the state's economy.

2 The other point I want to make is, just as
3 quickly as the films -- as the programs have the ability
4 to bring movies and television into New York, the
5 absence of a meaningful incentive program will cause
6 them to either shut down, relocate, or more likely never
7 come here in the first place.

8 We have a couple of examples. Last year,
9 because of the uncertainty of the program, the series
10 Fringe, which was shot at our facility, moved its entire
11 operations, hundreds of employees, to Vancouver, Canada
12 where they were ensured of the tax credit program.

13 You may have heard, because of not
14 sufficient ratings, that ABC has just cancelled Ugly
15 Betty, which is filmed at our facility. They will be
16 leaving in April, and unless the tax credits are
17 renewed, to bring in a replacement series, all the jobs
18 and economic activity generated by that show and others
19 like it will be lost to the state.

20 Thank you very much.

21 MR. STEINER: Chairman Farrell, Chairman
22 Kruger, and members of the committee, thank you for the
23 opportunity to speak today. My name is Doug Steiner. I
24 am the Chairman of Steiner Studios which is located in

1 the Brooklyn Navy Yard.

2 My father David and I built Steiner Studios
3 from the ground up, investing \$100 million to create a
4 full service, state of the art center for film and
5 television production.

6 We have already expanded three times. We
7 opened in November of 2004 and we have the largest stage
8 on the east coast at 27,000 square feet. When we
9 started we said there's no reason that the \$5 billion
10 film and television business in New York can't be a \$10
11 billion business for New York in ten years. We're five
12 years later and we're halfway towards that goal at seven
13 and a half billion dollars.

14 The intellectual capital is here in New
15 York, and gives us a natural advantage over some other
16 states competing for this business. Carpenters,
17 welders, set painters, grips, seamstresses, makeup
18 artists, prop specialists, electricians, set designers,
19 camera operators, the list goes on and on.

20 Also, of course, we have actors and extras
21 of every size, shape, ethnicity, age and talent
22 imaginable. We see our mission as eliminating obstacles
23 to doing film and television production in New York.

24 First, we have a real movie lot, like what

1 they have in LA, and that's because that's the model
2 that works. Everything under one roof creates cost
3 savings, creates synergies.

4 The second thing you need to have is a tax
5 credit program that preserves existing jobs, creates new
6 jobs and attracts substantial investment. It's economic
7 for New York City at zero cost to the state, while also
8 being cash flow positive to the state.

9 Our results in our five short years of
10 existence are as follows. Steiner Studios alone has
11 listed feature films and television shows with budgets
12 that aggregate \$1.6 billion.

13 These productions were done with Steiner
14 only because we made the investment to build our studio
15 and because of the production tax credits. These
16 include, but are certainly not limited to, Mel Brooks'
17 the Producers; Spike Lee's Inside Man, My Friend's
18 Girlfriend; Enchanted, which was the first big budget
19 Disney movie ever made almost entirely in New York, and
20 it's strictly attributable to the tax credits.
21 Spiderman 3; Denzel Washington in American Gangster; the
22 Cohen Brothers' Burn After Reading, which is their only
23 movie ever made in the state that they call home; Tina
24 Fey's Baby Mama; and there's a movie coming out soon

1 called Brooklyn's Finest, which was written by a baggage
2 handler at JFK. It's his first script and it's getting
3 rave reviews which should be good for New York and the
4 independent film and it's really based here.

5 We have coming out soon Matt Damon and also
6 a Disney and Jerry Bruckheimer \$200 million Disney
7 movie, this time the Sorcerer's Apprentice starring
8 Nicholas Cage.

9 This business was in the pits before the tax
10 program started in November of 2004 was our opening.
11 The independents in our studios, some folks in our
12 industry, were worried about losing their share of a
13 rapidly shrinking pie.

14 Now, look at the contrast. We are all here
15 together. Kaufman Astoria has just got the new
16 expansion. Silvercup is expanding. Broadway Stages is
17 expanding in Greenpoint.

18 We are continuing to expand and we hope to
19 realize our vision of a 50 acre movie lot in New York
20 City. We are about to double in size, adding 275,000
21 square feet with 10 more stages and a full complement of
22 support spaces we have now, dressing room, hair, makeup
23 rooms, set construction, wardrobe compartments, areas
24 for scenic artists and props, etc., and art departments

1 and production offices and post production including
2 editing and ducking stages.

3 If we had it today, we would be full. So,
4 on top of our original \$100 million this will represent
5 another \$75 million, roughly 350 construction jobs and
6 double our job talent from one thousand to two thousand
7 high paying direct jobs.

8 We want the business to plant roots here.
9 That means building the physical infrastructure the way
10 that we are doing, and having a level playing field via
11 the tax credits. New York has a diamond district, a fur
12 district, a financial district, even a button district.
13 We want to be the film and television district because
14 geographic concentration and critical mass promotes
15 growth for this industry.

16 We can ultimately grow Steiner Studios to
17 5,000 direct jobs, but we do need the tax credit to get
18 there. Without it, business will fall off the cliff.
19 This business is manufacturing for the 21st century and
20 it's one type of manufacturing that New York does well.

21 The tax credit keeps New York competitive
22 and fuels job growth, infrastructure investment, and
23 makes money for the city itself.

24 Thank you for the opportunity to testify

1 here today. Look forward to working with all of you and
2 expanding the film industry in New York. Of course, we
3 are all here to answer any questions you might have.

4 CHAIRMAN KRUGER: Thank you. Senator
5 Krueger.

6 SENATOR KRUEGER: Thank you. Good
7 afternoon.

8 You were a panel so I will ask my question
9 and whoever feels like they are the best suited to
10 answer.

11 The city also has had a tax credit. What's
12 the status of that currently and how does that relate to
13 the state tax credit?

14 MR. STEINER: The City tax credit depends
15 upon the legislation from the state and we hope to have
16 that done as well.

17 SENATOR KRUEGER: So, there is no current
18 tax credit?

19 MR. STEINER: The city tax credit is out of
20 money and it's definitely affecting the volume of
21 business coming to the city.

22 SENATOR KRUEGER: Several different people
23 testified that there is film versus T.V. series; there's
24 production versus post production. As the Governor has

1 proposed the tax credit in his budget, is it applied to
2 everybody the same or are there differences within the
3 different subsectors of the industry?

4 MR. STEINER: I think the goal of the tax
5 credit is to include the entire business so people may
6 film television soup to nuts here, start to finish.

7 The post production portion is being tweaked
8 to encourage more post production here as opposed to
9 bringing it back to LA for the post. The way it would
10 do that is it requires 75 percent of the post to be done
11 in New York in order to get the tax credit applied to
12 the post.

13 MR. JACKMAN: If I may speak to the post
14 production part. My name is Mike Jackman. I am the
15 Vice President and General Manager of Deluxe New York,
16 also known worldwide for its logo, Color Deluxe, which
17 has seen tens of thousands of films for 95 years now.

18 Deluxe was actually founded in 1915 in Fort
19 Lee, New Jersey. 1919 it moved its headquarters to 850
20 10th Avenue in Manhattan. It was founded by William
21 Fox, who founded the Fox Film Corporation, and for 50
22 years after that that was the headquarters.

23 During that time Fox merged with 20th
24 Century Pictures and became 20th Century Fox, acquired a

1 company called Movietone and helped usher in the
2 talkies. And in 1934 won an academy award for a process
3 called cinemascope.

4 In 1972, however, a new chairman came to
5 Deluxe and decided to, in an effort to save money, would
6 consolidate headquarters and moved everything out to
7 Hollywood, closing the New York office, and began a 35
8 year period where Deluxe was absent from New York.

9 During that time over various occasions
10 Deluxe looked at New York to see if there was an
11 opportunity to return, but there was never a sufficient
12 volume here of film and television production.

13 But suddenly, in 2007, with a tax incentive
14 in place and the understanding that it was going to be
15 continuing and expanding, Deluxe decided to make a
16 return to New York. It was a significant investment.
17 It was \$20 million investment in a 45,000 square foot
18 facility in the heart of the West Village in Manhattan.

19 It's created 70 jobs that would not have
20 been there. These are jobs at all levels, entry level
21 to skilled technicians and artists. We create, we
22 service the films in projection as they shoot, and in
23 post production we follow the picture all the way
24 through.

1 We create the theatrical version, the
2 international version in television and airline, iTunes,
3 Netflix, Blockbuster, every version that you can think
4 of is something we create.

5 With the incentive where it is and
6 continuing to expand for a five year plan, that puts me
7 in a position to make a five year plan to double the
8 size of Deluxe in that time, which is our plan and our
9 goal. It's something that could not have happened
10 without this program in place and something that will
11 not happen if the program doesn't continue to be funded
12 the way it is now.

13 As a little side bit to my Deluxe
14 experience, before there I was at the Weinstein Company.
15 I ran post production for the Weinstein Company, and I
16 just wanted to speak to productions coming to a place
17 where the incentive exists.

18 We made decisions literally the day the new
19 production incentive would go into place. Planning, I
20 had one film that we were going to shoot in New York.
21 We were here. That's where we wanted to be. All of a
22 sudden an incentive came into place. We were asked to
23 do the math and just figure out if we could save money
24 by shooting someplace else, and the answer was we could.

1 That place was Connecticut.

2 We shot there. We didn't want to, but that
3 was the edict. It was very, very much dollars and cents
4 despite everyone's great desire to stay in New York.
5 These programs are really important and they allow us to
6 shoot here.

7 By the way, we pressed and were able to get
8 some of that shoot back in New York, but these things
9 are really reactive and the successful program, like we
10 have here, really drives a huge amount of business. We
11 can't do without it.

12 SENATOR KRUEGER: One more question. Thank
13 you.

14 Conceptually, the tax credits create more
15 jobs here in New York, got it. I believe I am right
16 when I say that the largest payroll for movies,
17 particularly movies, are the superstar salaries.

18 You mentioned Nicholas Cage and Matt Damon,
19 I think, in your testimony so I will pick on them. So,
20 assuming they both live somewhere besides New York, does
21 New York State get to take advantage of taxing their
22 very large salaries out of these movies, or do these tax
23 credits also to some degree decrease the amount of taxes
24 that the people of New York State get if they take their

1 very large salaries back to -- I'll pick on California?

2 MR. O'LEARY: Senator Krueger, let me
3 introduce myself. I'm Brian O'Leary. I'm the tax
4 counsel with NBC/Universal and I spend a fair amount of
5 time at the New York State Tax and Finance. I see some
6 of my friends from Tax and Finance back there and I can
7 say that, yes, New York State gets its share of taxes
8 from the stars, as well as the crew that you heard from,
9 as well as everyone else around this table and the
10 people that we represent.

11 And then they go home to their own state.
12 If they are not living here, then they take a credit.
13 So, essentially Californian and other jurisdictions are
14 subsidizing the investment New York has made in this
15 industry.

16 SENATOR KRUEGER: Thank you.

17 MR. O'LEARY: I just want to make the point
18 that, if it hasn't been made before, the structure of
19 this credit is no dollar of credit is applied to any
20 talent itself. This is only below the line
21 infrastructure.

22 Just a point of clarification. So when we
23 do the Arbitron, and try to understand what the tax
24 credit in New York is on its face is 30 percent, what

1 that really translates to is between 15 and 18 percent
2 of the total budget, because all of those talent
3 salaries that you just asked about are not subsidized.

4 SENATOR KRUEGER: Thank you very much.

5 CHAIRMAN FARRELL: Assemblyman Englebright.

6 ASSEMBLYMAN ENGLEBRIGHT: Gentlemen, ladies,
7 it's really awe inspiring to listen to your testimony.
8 Some of us down here, my friend Joe Lentol, some of us
9 really fought for this last year and the year before,
10 which I point at that direction simply because Joe has
11 been one of the leaders in that regard.

12 It seems to me that the increase that's in
13 the Governor's proposed budget is a milestone, because
14 not only are we seeing it go from 350 last year to 420
15 in the more difficult budget year than we are in, but we
16 are actually seeing an initiative from the Governor.

17 This is in the past something that's been
18 carried primarily by legislators such as Joe Lentol and
19 other members of the Assembly and Senate. So, your
20 message is getting through, and that it is in the
21 executive budget with an increase in this most difficult
22 of all budgets really speaks loudly to the effectiveness
23 of your ability to communicate and your ability to
24 deliver. So, keep up that good messaging and delivery.

1 This tax credit program has been
2 misunderstood, I think, and maybe that fog is starting
3 to clear. Clearly, this initiative is one of the bright
4 spots in the economy of our state, and the
5 entrepreneurship that all of you have demonstrated, and
6 the energy that you have all brought to the vision of a
7 robust and ever growing industry based on our cultural
8 strengths is really something to be congratulated.

9 So, I just wanted to say thank you for your
10 good work. I do have a couple of quick questions.
11 Listening to you talk about the creation of jobs and
12 your vision of -- Doug Steiner was talking about 5,000
13 jobs just down the road a little bit.

14 I am just wondering: Have you had a chance
15 to do a net estimate of what the multiplier is for each
16 dollar of state money invested, by the time you add in
17 the caterers and the painters and all of the spin off,
18 what is that one dollar of state investment turning
19 into? What is that multiplier?

20 MR. STEVENSON: Let me give you two separate
21 figures. We have taken a look over the last year, the
22 350 that was appropriated last year. Basically it's
23 just raw. Five dollars for every dollar that the state
24 invests into the economy, and the analysis that we just

1 completed, that Ernst & Young just completed, if you
2 take the Governor's proposal over the five year period,
3 420 a year, 2.1 billion, the projection is a total of
4 180,176 jobs and generating a spend of \$10.5 billion
5 over that five year period because -- for a couple of
6 reasons.

7 One, you provide certainty particularly to
8 television production, and there is a lot more
9 television production coming on line not only from cable
10 but NBC now has a new ten o'clock spot five days a week.
11 But it's just an example.

12 In addition to that, motion picture
13 production, which is already demonstrating a robust
14 number of projects also out of state. There have been
15 several productions going on in Albany, I think as many
16 of you know.

17 Woodstock I think spent, from what we
18 understand, \$22 million out of state, \$8 million
19 locally. In fact, we heard a story there was a
20 restaurant about to go out of business and the cast and
21 crew ate there so many times the gentleman paid off his
22 mortgage.

23 ASSEMBLYMAN ENGLEBRIGHT: One of the things
24 that I hear you speaking to is a need for

1 predictability. As the lead time is often measured in
2 years, for one of these really very complex projects, be
3 it a new movie or a television series, how important --
4 I just want you to speak to that -- how important is it
5 that we send a clear signal by the way we handle the
6 budget in this particular item?

7 And the second part to that question is: Is
8 there a way for some of our legislative leaders -- I've
9 already tried to embarrass Joe Lentol -- is there a way
10 for some of our leaders within the Assembly and Senate
11 to do some things during the budget process, and in our
12 communication role, to reinforce the viability of your
13 long term planning?

14 MR. O'LEARY: One of the most important
15 things that can be done, as Mr. Steiner mentioned, this
16 program has been in effect for five years. It's no
17 longer a pilot program. It's now translated into the
18 thousands of jobs that we talked about.

19 What is important over those period of
20 years, what we have seen is the collection of data. You
21 heard Vans, the report that Ernst & Young has prepared
22 in conjunction with the film office. The film office
23 has information that very clearly reflects the impact of
24 what we have seen in the last few years as the boom and

1 bust cycle.

2 As production has grown, it has outpaced the
3 supply of credits for this industry. So, for example,
4 in 2008, there were 20 pilots filmed in New York.
5 Pilots, the traditional pilot season is the first
6 quarter of the year.

7 Last year by that time the funds had been
8 run out. So in all of last year there were three
9 pilots. So, we have gone in reverse on the pilots. By
10 comparison, feature films, last year there were 89.

11 If you go back to the beginning of this
12 program, in 2004 there were eight for the entire year.
13 This is important because what it shows you is that we
14 have grown -- this industry has responded to this
15 program.

16 What has happened now, because of the lack
17 of predictability, it has cost us over the last years
18 television because pilots are the precursor of series,
19 and series are the cornerstone of stable employment in
20 this industry.

21 The most important thing, I think, for
22 representatives in this Capitol to understand is that
23 the long term funding proposed by the Governor
24 ameliorates that. It allows a robust film industry, and

1 the television, two of them together makes New York
2 unlike any other state because it has incredible
3 resources to sustain both provided the funding is there.

4 MR. STEVENSON: Let me just add one thing to
5 what Brian said, just a specific example. Most of you
6 may be familiar with the HBO series that's being shot,
7 Broadway Empire, which basically takes place in New
8 Jersey, being shot in New York. And if the credit had
9 not been available it would not have been shot in New
10 York.

11 This is probably one of the more expensive
12 HBO is doing. It's \$100 million per year. Investments
13 probably -- it's the most expensive miniseries I think
14 that they have ever done, but it would have not come
15 without the credit.

16 Again, it's the predictability in
17 particular. As Brian points out, you know, the fact
18 there is a business here that is sustainable and we
19 believe it should be continued.

20 ASSEMBLYMAN ENGLEBRIGHT: Thank you very
21 much.

22 MR. KESNER: The other important part about
23 long time program is the ability for people like Doug
24 Steiner, like Jackman, Kaufman, Broadway Studios, and

1 even Silvercup to make investments because the financial
2 community is very well aware of this program.

3 And if they do a year by year program they
4 are not going to give us long term financing. If we
5 don't need to make a long term investment, whether it be
6 in equipment, whether it be in infrastructure, building
7 new buildings, we need to have predictability in our
8 long term program.

9 ASSEMBLYMAN ENGLEBRIGHT: Thank you very
10 much.

11 CHAIRMAN KRUGER: If I could interject a
12 thought. While we wrestle with the budget, we all want
13 to see research and development take place in New York.
14 We all want to talk about nanotechnology and all those
15 other wonderful great things, but the real nuts and
16 bolts of creating a graphic of economic development
17 happens when we go through the Brooklyn Navy Yard and we
18 look at Steiner Studios, and we look at the Steiner
19 family that came to the Navy Yard in a time what it was
20 in a state of disrepair, and some of it still is.

21 But there's great things ahead for the Navy
22 Yard and it's because of the energy and effort and the
23 economic infusion that Steiner Studios has brought to
24 the Navy Yard. So, when we want to wrap our hands

1 around something and point that New York is alive and
2 doing well, and that we want to bring in new industry,
3 and we want to bring new dimension and new focus to our
4 communities, your industry, Silvercup, Steiner, are
5 graphic examples.

6 And as we continue to partner further, we
7 will make our commitment. You have already made your
8 commitment. The synergy that we created truly
9 represents a microcosm of what could happen if other
10 industries and other businesses would come to New York
11 because it's not easy to say, you know what? 350
12 million last year, 421 million this year, tax credits or
13 not, it's money on the books in one form or fashion.

14 And for us to do that during these difficult
15 times says that when motion picture industry has stepped
16 up to the plate we come to see Steiner studios and we
17 say thank you for being part of our lives.

18 CHAIRMAN FARRELL: Assemblyman Lentol.

19 ASSEMBLYMAN LENTOL: Thank you, Mr.
20 Chairman.

21 First of all, in the interest of full
22 disclosure I want to say that I did not pay Steve
23 Englebright to say anything about me. Thank you, Steve,
24 for your kind remarks but it's been your leadership as

1 well as Chair of the Committee that really helped us.
2 Chairman Englebright has just taken over the
3 Chairmanship in the last couple of years.

4 And also in the interest of full disclosure,
5 I should tell you that Steiner Studios happens to be
6 located in my district, as does the Broadway Stages in
7 Greenpoint, lead by Tony Argento, who is here.

8 And you are right that we are collecting a
9 northern Brooklyn coalition of movie production and
10 western Queens, I might add, in Silvercup and Kaufmann
11 Studios, very closely bunched together. I don't know
12 where the west side of Manhattan comes in to this but...

13 Nevertheless, Mr. Englebright asked a lot of
14 questions that I wanted to ask and I'll just say very
15 briefly that, for those of you who don't know, that this
16 is the first tax credit in the history of New York State
17 that made money. Any other tax credit that we ever
18 passed lost money. I don't know if the Chairman knew
19 that, but it's a credit to us, no pun intended.

20 The question I'm going to ask, maybe I'll
21 ask you, Doug, the answer to this, and this is the one
22 that I am always asked by constituents who are troubled
23 by the fact that we are doing these tax credits, and
24 they ask me: Well, won't movie producers and filmmakers

1 and anybody in the industry film in New York anyway
2 because they need the backdrop? Don't they need the
3 skyscrapers and need the bridges that they can't get
4 anywhere else? What's the answer to that?

5 MR. STEINER: I think that's a good question
6 and something that we're confronted with regularly, and
7 the answer is: Pre-2004 pre-tax credit they did come to
8 New York. They shot the skyscrapers, they shot the
9 bridges, they shot the Statue of Liberty, and then they
10 went back to LA to do the movie, and that's why the
11 dollars weren't here and our business is really below
12 the line and below the line means no star money, just
13 the people working on the sets, and it's wages, wages,
14 wages, and that's what's driving the business and
15 driving the economic portion of the tax credit example.

16 MR. KESNER: At this point, if you have seen
17 Avatar, you have seen that they can create anything to
18 make it look like it took place anywhere. You shoot,
19 you back up, and you can make a whole lot happen.

20 It doesn't change the desire for the
21 authenticity of being on the streets of New York.
22 That's the first choice, but they have a choice.

23 ASSEMBLYMAN LENTOL: The last question I
24 will ask. Anybody can answer this. You heard the

1 President talk about jobs being at the forefront of a
2 restoration of our economy. Did the movie studios
3 create more jobs last year than before, or did they just
4 hold the line on jobs? If you know the answer.

5 MR. FORD: I can't speak directly to the
6 facilities themselves, but I can tell you that, for
7 Local 52, 2009 was the busiest year in our 90 plus year
8 history from start to finish. Pretty much outside the
9 sound department, over 100 percent employed.

10 ASSEMBLYMAN LENTOL: This is where people
11 were getting laid off in the rest of the country?

12 MR. FORD: Absolutely. Many of my members
13 would actually come and tell me that they were actually
14 embarrassed to go out on the weekend because they had
15 jobs and so many of their friends did not. They were
16 actually embarrassed.

17 That's how busy -- yes, we've been
18 spectacularly busy. Hopefully it will continue. But I
19 could also say briefly, with respect to these
20 incentives, in 2007 we lost 17 feature films to
21 Connecticut, that place that has no infrastructure, no
22 equipment.

23 I called up one of the studios and I asked,
24 what's the point? What's the logistics? There's no

1 lights. There's no cable. No sand bags. She said,
2 John, we have to go where finance tells us to go.
3 That's it.

4 Unbelievable. 17 features. They hadn't had
5 seven in the last 50 years.

6 CHAIRMAN FARRELL: Thank you.

7 MR. STEINER: Broadway Stage has added over
8 ten full-time employees for 2009.

9 ASSEMBLYMAN LENTOL: Thank all of you for
10 being here. We need you here in New York. We
11 appreciate the fact that you here.

12 SENATOR DEFRANCISCO: Just one comment.

13 Joe Lentol mentioned about full disclosure,
14 and I think in the interest of full disclosure we should
15 also say that Joe has another motive for improving the
16 film industry in the state, and that is: A couple of
17 years ago he was named Legislative Idol and he sang, had
18 a beautiful voice. He's trying to create a career for
19 himself.

20 CHAIRMAN KRUGER: Thank you, again.

21 Village of Freeport, Mayor Hardwick.

22 MAYOR HARDWICK: Thank you, Mr. Chairman.

23 You want to talk about a hard act to follow. It's truly
24 an honor to be before you Chairman Farrell, Chairman

1 Kruger, members of the committees.

2 I Thank you for this opportunity. I'm going
3 to be brief. Surely you must know that I'm here for
4 probably two reasons. One, to change rules or, two, to
5 get money.

6 CHAIRMAN FARRELL: Which one is it this
7 time?

8 MAYOR HARDWICK: Both of them, actually.

9 To make it simple and quick, because I know
10 you've got a lot going on here today, I represent the
11 Village of Freeport, this beautiful, bustling community
12 of approximately 70,000 residents, 47,000, according to
13 2007 census under count.

14 We are the second largest municipality in
15 the State of New York. I am honored to serve this
16 beautiful lady that sits on the South Shore waterfronts
17 of Nassau County, Long Island, New York. Better known
18 as Mrs. Freeport to those of us who are Freeporters.

19 Today I am here for a few reasons. As you
20 no doubt are aware that the CDBG aid from our federal
21 government has cut. This is less than municipalities
22 and their seed. I should say EDC funds traditionally
23 that rely upon -- the federal government is seriously
24 strapped for cash.

1 We are here today because perhaps maybe we
2 if could find a way in this year's budget to help film
3 some of those holes that have been created by federal
4 government it's going to help the infrastructure of many
5 of the communities such as Freeport.

6 Freeport is one of those communities that,
7 from statistical base upon which the Nassau County
8 consortium, which we are a member of, relies upon
9 application for aid from depressed communities.

10 The consortium qualifies for this type of
11 aid because of these communities such as ours. The
12 majority, minority areas census based statistics such as
13 unemployment, poverty levels, school lunch population
14 and crime, the problem we have is that many times when
15 the funds have been sent from state to county government
16 they don't reach villages such as Freeport because of
17 the rules.

18 So, perhaps amendments that could be made to
19 assure that the populations that are included in the
20 application process would receive the amounts in which
21 they are eligible for.

22 If the county, for instance, gets a thousand
23 dollars, and based upon the application we didn't use,
24 because of our population to get 60 percent of that

1 thousand, then we would like to have our 600 bucks.

2 It's just that simple.

3 The way that it's done now we are not
4 receiving such. In fact, many of the affluent
5 communities, such as Garden City, Greatneck, and Oyster
6 Bay, receive many of those funds which they don't
7 qualify for, but because of our qualifications they are
8 given the funding. We really need to address that.

9 Also, municipalities, such as Freeport,
10 frequently request developers have their taxes waived
11 under a so-called PILOT, payment in lieu of taxes. The
12 only thing that we are saying is that we are hoping that
13 we can get an amendment to that as well because, in many
14 cases, that hurts our communities. Because of the
15 makeup of our communities, because of the churches and
16 other non-for-profit organizations, and because of the
17 indigenous population, we are losing, if we are giving
18 away tax dollars to those who could really pay taxes.

19 And, at the end of the day, if the mayor,
20 the chief executive of that corporation, had the ability
21 to decipher whom really qualify for such a break was
22 given the authority in lieu of outside interests that
23 really don't know the plight that we are trying to
24 combat.

1 I also would like to have input on the
2 Empire Zone legislation. We have had tremendous help
3 from our champion, Deputy Speaker Earlene Hooper, who
4 sits on your panel today. We thank you so much, Deputy
5 Speaker, for all your efforts. We need the zone be
6 enlarged for our Empire Zone. Right now it's too small.

7 We need to enlarge it, to keep it simple. I
8 have got a lot of stuff here that I could read, but just
9 to simplify that as well, for an example, 20 percent for
10 five years. 50 percent for ten years. And an
11 additional ten percent for every year thereafter.

12 These are the simple things that if we had
13 to incorporate -- I'm sure you have this brief in front
14 of you -- that if we could incorporate into what's
15 already on the books now would greatly help
16 Mrs. Freeport, because where we are economically we are
17 threatened by some of these policies or even past
18 practices that are crippling us with respect to economic
19 development and our future finance. We really need your
20 help.

21 Thank you so much for your time. I am sure
22 if you have any questions I can assist.

23 ASSEMBLYWOMAN HOOPER: First of all, I want
24 to thank very much for my Mayor, who certainly brought

1 vision, innovation and creativity to the Village of
2 Freeport. Honored to have you here today. Thank you
3 for mentioning me. I didn't ask for that but I
4 appreciate it.

5 I just wanted to go just one aspect of your
6 testimony as it related to the economic aid
7 distribution. I am very aware of the impact that this
8 type of distribution has on the communities at large,
9 but specifically, as it relates to Nassau County and
10 Freeport, would you be kind enough to get into a little
11 bit more detail as to how the funds are allocated based
12 on population, and yet how they are utilized and
13 distributed throughout the county based on the
14 consortium.

15 Therefore, our particular specific
16 communities do not receive our fair share. Could you
17 just go into that just a little bit, if you don't mind,
18 in the interest of time I would appreciate that.

19 MAYOR HARDWICK: The thing that's so
20 troubling is that there is no real basis as to which
21 scale is followed on any particular year. Every year
22 there's a different scale and the thing that's troubling
23 to me more so than any is that I'm never made privy to
24 what kind of scale is being followed.

1 That's why I'm here today seeking
2 legislation that would give us a clear cut policy on how
3 funds would be disbursed.

4 ASSEMBLYWOMAN HOOPER: At this point in time
5 the legislation, the formula is always in a state of
6 flux so you really don't know exactly where and how much
7 or what the formula is?

8 So you are saying that we might be able to
9 do something to address that issue?

10 MAYOR HARDWICK: Yes, Ma'am. As far as I
11 can tell from all the information gathering that has
12 taken place we cannot find any clear cut answer to that
13 question. We know that the county receives, and I think
14 that the thing that's missing is that the directive as
15 to how the funds are being disbursed has not been given
16 clearly to the county government.

17 ASSEMBLYWOMAN HOOPER: And that's not -- at
18 this point in time that is not spelled out in the
19 legislation?

20 MAYOR HARDWICK: No, ma'am.

21 ASSEMBLYWOMAN HOOPER: Thank you so very
22 much and I appreciate you being here.

23 MAYOR HARDWICK: Yes, ma'am. Thank you for
24 having me.

1 CHAIRMAN KRUGER: Senator Krueger.

2 SENATOR KRUEGER: Thank you very much for
3 coming to testify. I have a politically delicate
4 question I would like to ask you.

5 The state legislature passed a bill allowing
6 more merger of local government, and arguments have been
7 made, and here in Albany, that because we have so many
8 separate individual local divisions, subdivisions,
9 subdivisions and, in fact, you come from the county that
10 has the poster child reputation for having that
11 situation.

12 Now you are the mayor, so I suppose it would
13 be ridiculous for me to say to you: What if we just
14 took the Village of Freeport and made it part of a
15 larger one entity, but in fact, would not for some of
16 the concerns you are raising with us today about unfair
17 distribution of state resources and development
18 resources and tax resources, unfair treatment based upon
19 the poorer area of Freeport?

20 MAYOR HARDWICK: And the population.

21 SENATOR KRUEGER: Would there be some
22 solutions for the community you represent that you could
23 imagine being tied into a redefinition of what we call
24 local governments in Nassau County?

1 MAYOR HARDWICK: Yes, but I don't want to be
2 selfish because I could be in this instance, but I
3 think, in all fairness, there has to be equation that we
4 could come up with that would make sense, because I
5 understand Nassau County is home to two of the largest
6 -- I should say two of the largest municipalities in the
7 state, meaning Hempstead and Freeport City as the
8 largest.

9 So, I am sure that we are running neck and
10 neck with numbers, but we have a lot of affluent
11 communities in Nassau County that are doing well. I
12 just don't think that they should be communities that
13 are sucking up many of these funds when they could very
14 well underwrite many of those needs themselves.

15 SENATOR KRUEGER: Thank you very much.

16 MAYOR HARDWICK: But I would seek your help
17 before I would in Nassau County because I think there
18 would be a fairer hand here in distribution of funds.

19 CHAIRMAN KRUGER: Thank you.

20 Ann Thane, City of Amsterdam, Mayor.

21 MAYOR THANE: Hello. Thank you so much for
22 having me here today. It's really a privilege. And the
23 City of Amsterdam recently embarked on a new marketing
24 campaign and we've branded ourself Small City Big Heart

1 and so I would say to you today that I think we are
2 switching that to small city brief testimony.

3 The reason I am here today is to talk about
4 the importance of economic development to the City of
5 Amsterdam, which is, after sitting all morning and
6 listening to the testimony given from such a varied and
7 interesting group, and looking in terms of
8 macroeconomics, I don't envy your charge at all.

9 It's a difficult situation that the state is
10 faced with. You are challenged with dwindling
11 resources, certainly rapidly expanding Medicaid costs,
12 unemployment and the impact on business and industry is
13 phenomenal.

14 Today, I am here to talk about the City of
15 Amsterdam and reel this all back into something that's
16 much smaller in scope, and so that we are really a
17 snapshot of the small municipalities and the problems
18 that we deal with.

19 The City of Amsterdam is really a beautiful
20 little city that's just west of here, about 40 minutes.
21 We span both sides of the Mohawk River. We have natural
22 beauty. We have beautiful architecture. We are
23 affordable. We are accessible. And we are warm.
24 That's what we are saying.

1 We have 17 percent Latino population and we
2 celebrate our diversity. We, though at this time, are
3 faced with daily issues regarding the failing
4 infrastructure, blighted neighborhoods, residents
5 shouldering more and more of the tax burden. And our
6 county is bordering on a ten percent unemployment rate.

7 The county and the school budgets both face
8 double digit increases next year. And so I think what I
9 am here to talk about is the need for a cohesive but
10 economic development strategy.

11 We have watched for years money being
12 funneled up and down the Northway corridor, and to the
13 Capitol, and to New York City, and what I am here to say
14 to you today is you must send some money west and north
15 to our failing little cities.

16 Just one project can be so transformative to
17 a city of our size, which is 17,000 people. We recently
18 had Beechnut decide to stay within Montgomery County
19 because of the EZ program, and we are now looking in
20 this state budget that there's been perhaps \$99.5
21 million allocated to build the state data center in the
22 Capital District.

23 We are saying Amsterdam would be perfect.
24 Since we can't attract the film industry, we would like

1 to attract a data center. This kind of investment
2 equals economic development for us. 100 jobs is
3 transformative for the City of Amsterdam.

4 So, I will just leave you with a thought
5 that this is really not the time to shrink back from
6 investing in infrastructure and these kind of projects
7 that are so important to communities like mine, but to
8 invest and collaborate and be creative.

9 So, that's it from the City of Amsterdam.

10 CHAIRMAN KRUGER: Thank you.

11 Peter Saltonstall, Chairman, New York Wine
12 and Grape Foundation.

13 MR. SALTONSTALL: Good afternoon. I thought
14 that friends in the back we're saying, Pete, don't read
15 your speech. I thought if I start marking it up that I
16 will probably end up taking longer, more of your time,
17 so what I decided to do is to read it against their best
18 judgment.

19 What I would like to suggest that you could
20 do is handout what's been made up, it's called What's in
21 a Bottle of Wine? As I am reading my prepared statement
22 you might be able to look at both sides, and a lot of
23 the numbers generated by our industry are on the back.

24 Mr. Chairman and Members of the Committee,

1 good afternoon. Thank you for allowing me to give
2 testimony today. My name is Pete Saltonstall, and with
3 my wife Tacie Saltonstall, I own King Ferry winery on
4 Cayuga Lake in the Finger Lakes.

5 For the past three years, I have also served
6 as Chairman of the Board of New York Wine and Grape
7 Foundation. I would like to say two things: Thank you
8 and please.

9 Thank you for creating the New York Wine and
10 Grape Foundation 25 years ago, and for the incredibly
11 productive partnership between the public and the
12 private sector that it has represented since then. And
13 please support our budget request for the coming fiscal
14 year.

15 Before I elaborate on those, I would like to
16 tell you a little bit about my vineyard and winery,
17 which is pretty typical of the other 276 in New York
18 State. King Ferry winery is a family farm. Tacie and I
19 are actively involved; as is our son, Lev, when he's
20 home from college. Tacie's brother is our vineyard
21 manager and our son-in-law runs our tasting room.

22 We planted the first vines in 1984 and today
23 have a total of 29 acres of grapes. We opened the
24 winery in 1989 and now produce about 10,000 cases of

1 wine annually.

2 We are proud to have won many prestigious
3 awards and international competitions, including the
4 international Reisling championship a few years ago. We
5 are just as proud of our neighboring wineries for their
6 awards which have generated a national reputation for
7 quality of Finger Lakes and New York wines.

8 We employ nine full-time and 80 part-time
9 people. That shocked the heck out of me. We have
10 invested over \$3 million in our vineyard and winery and
11 plants, trellises, farm equipment, farm winery building,
12 wine making equipment, packaging, everything else that
13 you need to make and sell a bottle of wine.

14 We also welcomed more than 25,000 visitors
15 to our winery last year, in our local rural area year
16 after year. And we paid more than \$44,000 state excise
17 sales taxes in 2009.

18 In other words, me and other New York
19 wineries are classic examples of small businesses that
20 drive economic growth. Beyond our own business, we have
21 stimulated the creation of many new small businesses,
22 like bustling limousine companies, bed and breakfasts,
23 hotels, restaurants, gift shops, and even manufacturing.

24 Years ago, a manufacturer called Vance Metal

1 in Geneva was struggling to survive before we suggested
2 that he begin producing stainless wine tanks for our
3 industry. Today, Vance Metal is not only selling tanks
4 in the Finger Lakes, but throughout the country.

5 In short, we add tremendous value to the New
6 York economy. We are literally rooted in New York. We
7 cannot move our operation to another state even if we
8 wanted to, and we don't. We are New Yorkers and we love
9 New York and we are proud of the New York wines.

10 And we need your help. One of the keys to
11 our wineries and industries has been the research and
12 promotion programs of the New York Wine and Grape
13 Foundation, which the legislature created in 1985 during
14 an economic crisis in our industry.

15 The result: Today, the wine industry is the
16 fastest growing industry in the agriculture and tourism
17 sectors and one of the few bright spots in New York
18 State's overall economy. This was made possible by
19 ongoing financial partnership between the State of New
20 York and our industry.

21 We recently commissioned two separate
22 studies to measure the growth and economic impact of our
23 industry. The National Agricultural Statistics Study
24 released in October showed the long term growth since

1 1985 when the Foundation was created.

2 A study by Wine Economics from Stoneridge
3 Research released in January commissioned our economic
4 impact on the state economy in 2008. I wanted to share
5 a few of the highlights with you.

6 2008, New York grape juice and wine industry
7 generated \$3.76 billion in economic benefits to the
8 State of New York, which include 17,000 full-time
9 equivalent jobs and \$802 million wages; 36.5 million in
10 grape sales; 32.7 million in grape juice sales; and 508
11 million in winery sales; 4.98 million tourist business
12 to wineries; and 376.5 million in wine-related tourism
13 expenditures; 230 million in state and local taxes paid.

14 The industry's gross since the Foundation's
15 creation has been phenomenal. That's indicated by some
16 of the NAS findings. From 2000 to 2009, 161 new
17 wineries opened, which is more than the previous 170
18 years. In just the past five years, 100 new wineries
19 totalled more than 20 years in the '80s and '90s, more
20 than quadrupling the growth rate.

21 There are now wineries in 46 New York
22 counties, including metro New York. Tourists to
23 wineries have now multiplied more than 13 times since
24 1985, 340,000 to nearly 5 million in 2008.

1 Between 2000 and 2008, business increased by
2 85 percent and per person spending by 76 percent, for a
3 total increase of 2200 and 28 percent in the value of
4 sales. That's sales taxes for the state and local
5 governments.

6 The average winery invested 500,000 between
7 2000 and 2003 and \$400,000 between 2006 and 2008 in
8 vineyards, wine production, and facilities supporting
9 other economic sectors like construction and equipment
10 and manufacturers. Much of this growth is attributable
11 to the private-public partnership represented by the New
12 York Wine and Grape Foundation.

13 On behalf of our Board of Directors and
14 industry, I respectfully request that you support the
15 partnership again this year. The Foundation requested
16 \$3 million of state funds for fiscal year 2010-2011, a
17 level which we had a couple of years ago.

18 We know that that may sound like a lot
19 especially in these challenging times, but it's less
20 than 1/1000th of the economic benefits we produce and
21 about one and a half percent of the state and local
22 taxes we pay.

23 In other words, this is a small investment
24 that would generate a handsome return based on a 25 year

1 track record of success and growth. Last year the
2 executive budget proposal proposed eliminating all
3 funding for the Foundation from a level of 2.8 million
4 the previous year, but the legislature restored 1.7
5 million. Thank you.

6 Again this year, the executive budget
7 proposes eliminating our funding. So we again request
8 your assistance in restoration. I want to make this
9 clear, and I want to make this very, very clear. We are
10 not asking the state to do all of the lifting. Each
11 year our industry puts up over a million to match the
12 state dollars, and multiply the budgets for our research
13 and promotion.

14 We do not have an automatic funding
15 mechanism, such as a marketing order, although we are
16 working on one. Our industry always fulfills its
17 commitment voluntarily. Having the state matching funds
18 is a vital incentive to making that happen.

19 Finally, I want to share with you the
20 strategic goal of the New York Grape and Wine Foundation
21 is to have the New York grape and wine industry
22 recognized as a world leader in quality productivity and
23 social responsibility. Thanks to this partnership, this
24 has been accomplished on a national level. We are

1 advancing rapidly on an international level.

2 We, again, thank you for your support and
3 ask it to be continued.

4 CHAIRMAN FARRELL: Thank you.

5 CHAIRMAN KRUGER: Thank you. Questions?
6 New York State Liquor Store Association.

7 MS. ENDRES: My name is Beth Endres. I am
8 here today with a panel of folks to discuss, again, the
9 wine in grocery stores issue. I testified in front of
10 you last year on February 3rd, so I wanted to first
11 thank you for saving our businesses last year and not
12 allowing grocery stores and the big corporations in this
13 state, to once again, absorb some of the true small
14 businesses that are so hanging on by our fingertips in
15 the state.

16 And I will go over some of the issues from
17 the wine and liquor store owners' perspective. And I
18 also have as well here -- we have a winery owner in the
19 Finger Lakes winery from Eagle Crest that will be
20 speaking, as well as somebody from the United Federal
21 Workers Association Union, so I will just -- briefly, I
22 have testimony but I only found out I was doing this a
23 couple days ago, and I just want to paraphrase it, and I
24 know you guys are running late so I'm not going to read

1 my testimony.

2 But, again, thank you very much. This is
3 something that would put thousands of New York State
4 liquor stores out of business if this goes through, into
5 the big box grocery stores and into convenient stores
6 and into the drug stores and everywhere else this is
7 proposing to increase wine sales in the state.

8 Again, as you know, this proposal, this was
9 not something that has been a public driven issue. This
10 is driven by -- I think it's pretty clear who this is
11 driven by, big groceries in the area. But there has
12 been independent studies, again, that were done that
13 showed that there is not going to be increased wine
14 drinkers. You are not going to convince someone to
15 drink wine if you are going to be able to buy it from
16 aisle 9 versus to be able to buy it from a wine store.

17 There's only so much of a pie, and if you're
18 going to take that pie and you're going to cut 19,000
19 more pieces of the pie, there's no way we are going to
20 survive. Liquor stores survive by selling the everyday
21 wines, the Kendall Jacksons, the Barefoot, the
22 Yellowtail. That's how we pay our rent. Liquor in the
23 state does not, as many modalities as you want to --
24 compromises that are proposed, as many liquor stores you

1 want to let us open will not allow us to survive because
2 you don't make any money on the liquor side of the house
3 in the way the state has been set up, the way it's been
4 set up since prohibition.

5 The margins are too low on liquor. I would
6 want the one liquor store I own, let alone having three
7 or four more, but to be able to open up with. Again,
8 these are issues and these compromises aren't something
9 that we have agreed to as an association.

10 There's nobody that can tell me that you can
11 take 40 percent of my profits away, or 40 percent of my
12 business and I will still be able to survive and pay my
13 rent. There's absolutely no way. In fact, I took a day
14 off work. I'm obviously not a paid lobbyist. I took a
15 day off from work today. We are a dual income family,
16 true middle class family, which most owners of liquor
17 stores are. This is -- we are not a big corporation.

18 I sat today and listened to increasing small
19 business and how important that is to New York and to
20 getting out of this recession. Everybody from the
21 Business Council, everyone this morning talked about
22 businesses under 50 employees. That's us. We are a
23 small business. We have seven to ten employees.

24 Everybody's talking about how this needs to

1 there and these compromises that are coming to the
2 table, there's nothing that can make up for the loss of
3 allowing big box stores and convenient stores to sell
4 wine.

5 Just as a note, as far as underage drinking,
6 we had the representative from law enforcement that was
7 supposed to be here today to be able to testify, Dan
8 Sisto, Law Enforcement Against Drunk Driving. He
9 unfortunately had to go to a State Trooper -- he's a
10 member of the State Troopers Association and he had to
11 go -- there was a State Trooper out in Cornell that lost
12 his 20 year old son in Afghanistan today. So, he had to
13 go be with the trooper and his family when they were
14 informing him about the unfortunate death of his son in
15 Afghanistan.

16 So, we have written testimony from him, but
17 the law enforcement people that deal with this issue
18 every year are adamantly opposed to this and they were
19 opposed to it last year, they are opposed to it this
20 year because, yes, these outlets do already have beer
21 licenses, but beer is not wine. Beer does not have a 12
22 percent alcohol content.

23 This is something -- this is a small two
24 dollar thing that will be put in every convenient store,

1 every Citco gas station, every bodega. You could drink
2 one of those and be impaired in the state with out new
3 anti-drinking laws.

4 So, on the one hand you are going to tell
5 people not to drink and drive, and we have the huge
6 problem of underage drinking, but on the other hand you
7 want to provide something with three times the alcohol.

8 Kids, young girls, want to drink sweet wine.
9 And I have wine, I have tried -- actually, security
10 would not let me bring the wine in. I have wine that
11 basically is made to look like fruit juice, but with the
12 alcohol content of wine.

13 There's all sorts of wines out there that
14 taste just like juice and it's going to be given to
15 16-year-olds that want to drink and that are binge
16 drinking, would prefer to drink that than they would a
17 six pack of beer.

18 And law enforcement realizes that they do
19 not -- that the manpower is going to fall on them to
20 police these additional stores, and they can't police
21 the ones that they have currently.

22 Yes, liquor stores are not perfect, but
23 there's no 21-year-old allowed in my store without an
24 adult. Under 21-year-old, excuse me. There is under

1 21-year-olds in grocery stores. They go in there after
2 school. They are walking around there with their
3 backpacks. It sells food. They are supposed to be in
4 there. They have every right to be in there. They
5 don't have every right to be in our store because we
6 have a volatile product that they can get in a car and
7 drink and drive with.

8 Again, law enforcement is opposed to this.
9 Other states do have this, and that's another issue that
10 I will end with. Other states have this co-existence.
11 People say, well, other states allow their grocery
12 stores to be selling wine.

13 No other state has done this at the expense
14 of independent businesses. Other states that have
15 changed -- Washington, Vermont -- Washington had ten
16 state run liquor outlets when they decided to let
17 grocers distribute their wine.

18 Of course, when the wine rule changed you
19 have to open more state stores and you have to allow a
20 different distribution chain. They chose to allow
21 grocery stores to do this years ago. New York chose to
22 have one store, one owner.

23 My bank would laugh me right out of it if I
24 came to them to try and get a business loan with a 40

1 percent decrease in my profits.

2 Again, thank you last year for not allowing
3 this to go through in the budget. I will now have
4 Greg...

5 CHAIRMAN KRUGER: Thank you.

6 MR. GOREA: My name is Greg Gorea. I'm a
7 union officer with the United Food and Commercial
8 Workers Local 1. Today I'm here testifying on behalf of
9 my brothers and sisters, my 100,000 brothers and sisters
10 at USW Local 280, 34250, 888, 1500, along with our
11 sister council RWDSU.

12 RWDSU and UFCW in New York City are joining
13 us against these proposals, and tens of thousands of
14 Teamsters in upstate New York and the City of New York.
15 I speak on their entire behalf because we are in
16 agreement that this wine proposal will have a
17 detrimental effect on good, middle class jobs in New
18 York.

19 I can tell you first hand that this
20 legislation will not create any new jobs in the grocery
21 stores. When Proctor and Gamble or any manufacturer of
22 a consumer product, for that matter, adds a new item to
23 one of our grocery stores across New York State, jobs
24 are not created.

1 If wine is added to grocery stores, the same
2 thing. No jobs are going to be added. There's never
3 been a time that at any of our union halls an employer
4 has called us up to say they are adding a new product
5 line and they need new members, more employees in that
6 store. Just has never happened.

7 On top of that, and this is the worst part,
8 our best -- UFCW jobs in New York State come from our
9 liquor salespeople. UFCW Local 2D represents hundreds
10 of liquor salespeople from Buffalo right into the city
11 of New York. These members receive great middle class
12 wages and benefits.

13 On top of that, our brothers and sisters who
14 deliver the wine and liquor earn \$70,000 as a Teamster,
15 plus get healthcare and pension benefits, hauling wine
16 and liquor across New York State.

17 Grocery stores and big box stores will use
18 their own purchasing and delivery network to buy and
19 distribute wine into their stores. They will seek the
20 lowest cost process. They will certainly eliminate the
21 current jobs that I spoke about.

22 The question is: Why would we want to trade
23 these above average New York jobs and replace them with
24 Wal-Mart wages and benefits? How will this help our

1 state's struggling economy? Not to mention that added
2 New Yorkers collecting benefits from the already
3 overburdened unemployment rolls.

4 Not one grocery store or big box store will
5 be affected or closed if wine is not added to their
6 product line, but a whole industry of distribution
7 salespeople and locally owned and operated stores and
8 wineries could be devastated by this job killing
9 proposal.

10 So, we strongly urge you to drop this
11 proposal from in the state's budget. The one time shot
12 in the arm this wine proposal may bring, may add to this
13 year's budget, I can tell you first hand it will have an
14 adverse, devastating effect for years to come.

15 So, please don't trade our good union jobs
16 and make our members suffer as grocery stores and
17 non-union, undercompensated big box stores take over
18 another industry in our state. We are fighting this
19 proposal because we want to protect this industry status
20 as one of New York's few remaining bridges to middle
21 class.

22 Thank you very much for your attention.

23 Now I turn it over.

24 MR. OUWELEEN: Thank you, Mr. Chairman, for

1 the opportunity to testify today. I am here to address
2 the issue of wine in supermarkets legislation Governor
3 Paterson has included in his 2010-2011 budget proposal.

4 My name is William Ouweleen and I am with
5 Eagle Crest vineyards. Our winery was established in
6 1872. We have been producing New York State wine for
7 over 138 years from our original vineyard on Hemlock
8 Lake in the Finger Lakes.

9 Today, we remain the oldest producer of
10 sacramental wine in the new world. Approximately five
11 years ago we began producing small batches of Finger
12 Lakes table wine for sale at the vineyard and through
13 independent wine merchants throughout upstate New York.

14 We produce, market and distribute the wine
15 ourselves and have direct relationships with over 50
16 independent wine merchants, which is a growing number
17 each year. While we are experienced operating as one of
18 the oldest sacramental wineries in North America we are
19 relatively new to the table wine business.

20 I'm here today to share with you our
21 experience as a growing New York wine brand breaking
22 into the New York table wine market. I hope these
23 remarks will advance your understanding of the New York
24 wine industry. Many New York wineries share our

1 experience as small producers farming in our state.

2 Before I begin, I would like to thank
3 Governor Paterson, Assemblyman Joe Morelle and Senator
4 Liz Krueger for their ongoing industry in supporting the
5 New York wine industry. Their sponsorship of the Wine
6 Industry and Liquor Store Revitalization Act, and their
7 openness to hear our opposition to it, are appreciated.

8 In spirit, it is difficult for me to stand
9 opposed to something called the Wine Industry and Liquor
10 Store Revitalization Act. For the record, we are all
11 for the vitalization of the New York wine industry, but
12 given Chairman Peter Saltonstall's testimony about the
13 New York Wine and Grape Foundation and its effect on our
14 industry, I find it surprising that the New York wine
15 industry is in need of a revitalization at this time.

16 I'm here to share with you today my
17 rationale behind the opposition to wine in supermarkets.
18 Later this afternoon you will hear from wineries that
19 are in support of the idea.

20 First, I hope that everyone in our state
21 recognizes the potential that the New York wine industry
22 holds for New York. Already, we deliver over three and
23 a half billion dollars of economic impact each year.

24 Even throughout this great recession, New

1 York wineries are enjoying growth. Wine remains one of
2 the few products New Yorkers manufacture with pride.
3 Dr. Franks, Hermann Wiemer, and a growing number of New
4 York wineries are winning top medals at international
5 competitions year after year. Tourism is strong.

6 New wineries and restaurants continue to
7 open and we have yet to see any real attrition with New
8 York wineries. No one I know is getting rich operating
9 a winery in the New York climate, but many are
10 sustaining operations and reinvesting in their
11 production capacity to improve quality and secure our
12 place as an international producer of excellent wine.

13 We think the trend for New York wine is up,
14 and the future is bright, so it puzzles us when
15 proponents of wine in supermarkets contend that we need
16 more New York outlets in order for wineries to grow.

17 For the record, New Yorkers do not suffer
18 from a lack of access to wine in New York State.
19 According to a recent study by Cornell Professor Bradley
20 Richart, New York is already the second greatest wine
21 consuming state in the union. We don't need more
22 outlets but what we do need is for more New York wine
23 consumers to demand New York wines.

24 That is a matter of education and brand

1 building, not a matter of access. I am told currently
2 that less than ten percent of the wine consumed in New
3 York is New York made. We think the challenge is far
4 more fundamental than a lack of wine in supermarkets.
5 We have to educate New York consumers on the rise in
6 caliber of New York wines, and have New York consumers
7 experience locally made wines to better understand true
8 our true value.

9 For the record, already we have more
10 opportunities than we can staff to reach New Yorkers and
11 to teach them about New York made wines. Wine in
12 supermarket advocates seem to be encouraging a
13 liberalization of our alcohol beverage control laws, and
14 admit, with wine in supermarkets, that New Yorkers will
15 consume more wine.

16 To be clear, I am not here to encourage more
17 New Yorkers to drink more so that the New York wine
18 industry can prosper. That is not the challenge we seek
19 to address. Nor do we desire to see wine for sale in
20 every corner store.

21 Allowing wine sales in over 19,000 outlets
22 concerns us given the rise in demand for sweet wine
23 among young, new wine drinkers. We make wine for adults
24 to enjoy with meals, and do not ever want it to fall in

1 the hands of underage drinkers.

2 We have all recently seen the challenges
3 that the nutcracker drink brought to the boroughs of
4 Manhattan. We have little risk of that problem today
5 with wine given the controls in place at wine stores and
6 at the vineyards.

7 Wineries who are succeeding recognize New
8 York wine is a hand sold product. Rising consumer
9 demand for New York wines has driven greater shelf space
10 allocation to the retail stores. We continue to see
11 wine merchants increasing shelf space for New York
12 sections, and see the best stores adding square footage
13 to keep up with the rising demand for New York wines.

14 We find the marketplace to be functioning as
15 it was intended. We have not found much difficulty in
16 opening new store relationships to carry our wine. Our
17 challenges are much more of the logistics of servicing
18 stores and educating consumers, but we do not suffer
19 from a lack of outlets.

20 For those wineries who consider themselves
21 saturated in New York State, it would seem that there
22 are many export opportunities to enjoy, a strategy many
23 major wine producers in the world have already
24 leveraged. For small wineries, the current system is

1 working and needs no new help from our government.

2 You have already given us the many Pride of
3 New York sponsored events, which are a great tool for us
4 to educate New Yorkers and grow demand for our wines.
5 When asked by consumers to carry our wine, wine
6 merchants throughout New York State create shelf space
7 for us, and open their calendars for us to feature our
8 wines with in store tastings.

9 Therefore, we see the wine in supermarkets
10 issue as a fix for something that is not broken, and we
11 evaluate the legislation more from a risk versus reward
12 perspective.

13 Given the growth of the New York wine
14 industry, and its increasing international acclaim for
15 quality wines, and given that most wineries, liquor
16 stores, and wine consumers did not ask for these
17 changes, we ask: Why risk exposing any part of our
18 industry to potentially negative consequences?

19 Dr. Richart, in his Cornell study, projects
20 that liquor stores will lose between 17 and 32 percent
21 of their business should wine sales be allowed in New
22 York supermarkets. Most small businesses cannot sustain
23 a loss of 32 percent.

24 What we see proposed is a potential

1 opportunity to increase overall wine consumption in New
2 York State by up to 20 percent, but at the expense of
3 untold small wine merchants whose businesses would
4 close.

5 As a small producer who depends on the
6 small, local stores to hand sell our wines, the effect
7 of their closure on our retail sales would be negative
8 as well.

9 It is unlikely we would ever produce wine on
10 such a scale as to meet the demands of a large
11 supermarket buyer, so the proposed legislation holds
12 risk without reward for us, for our retail partners, and
13 for many small wineries throughout the state. It seems
14 imprudent to put hundreds, if not thousands of
15 businesses out of business for what amount to a one
16 percent revenue solution to the budget deficit.

17 \$147 million in the face of billion dollars
18 of deficit does not seem to be a fair trade. This is
19 the primary reason we remain opposed to the sale of wine
20 in supermarkets. Additionally, we do not want any
21 greater consolidation in the buying power within the New
22 York State wine industry.

23 Presently, no one buyer can corner the
24 market. With the opening of markets to megabuyers, such

1 as supermarkets, wine becomes a commodity, just like
2 every other SQU in the store. We do not want wine to
3 become just another commodity product in New York State.
4 We do not want winemakers and grape growers to face the
5 same plight as our dairy farming neighbors.

6 New York State wineries and vineyards add
7 character, creativity and commerce to our state.
8 Please, hear us. Remove this legislation from the
9 budget. The current system works for us.

10 We did not ask for this change and see more
11 risk than reward inherent within it, despite the
12 promises made.

13 I thank you for your consideration and for
14 your service to the great State of New York.

15 CHAIRMAN KRUGER: Thank you.

16 Any questions?

17 SENATOR KRUEGER: Yes, thank you.

18 Thank you very much for your testimony. As
19 you know from the fact that I carry the bill and we have
20 had round tables, we don't necessarily agree on this,
21 but I appreciate you coming.

22 Just one question. How many liquor stores
23 were in New York State ten years ago compared to now?

24 MS. ENDRES: Actually, I don't know the

1 answer to that exact question. I do know within a three
2 mile radius of my store there are four liquor stores,
3 one next to the Price Chopper, one next to a Hannaford,
4 one in between a Wal-Mart and a Target and one down the
5 street next to the convenient store.

6 So, I know in my community, if anything,
7 oversaturated. In fact, I had a hard time finding a
8 place to open a liquor store nine years ago because you
9 could not find a grocery store in this upstate market
10 that doesn't have one right next to it.

11 It took me many years to find a grocery
12 store that I could move in next to and to be viable and
13 to have a business plan that would work in this market
14 for the amount of wine I have to sell to pay my bills
15 every month. I needed the volume of the people walking
16 into Price Chopper to come buy my wine.

17 If that volume is taken away and they are
18 buying it at Price Chopper instead of walking next door
19 to my store, I won't survive. Do I know how many? No,
20 but I know we are second, as you said, second largest
21 consumer of wine in the union as of the State of New
22 York.

23 This isn't driven by a consumer wanting to
24 get their wine in aisle 9 versus my store. In fact,

1 when I tell consumers, when they say, oh gees, it might
2 be more convenient to pick it up and not have to walk
3 next door, that's true, but when they realize they won't
4 have my store next to it when they want a little bit
5 more selection, or when they want to buy a bottle of
6 vodka, or they are going to have to drive further to get
7 a better store that has a better selection and sells
8 liquor as well, they are like, oh, we didn't know you
9 were going to go out of business. We thought that you
10 could co-exist with the store selling wine.

11 That unfortunately is not going to happen.

12 SENATOR KRUEGER: The data is that the
13 number of liquor stores has dropped dramatically in the
14 last ten years, so your individual story may be
15 disregarded, or the facts of your story, but almost 600
16 communities don't have liquor stores right now.

17 It's an interesting question of wine
18 purchased in the State of New York. We are one of the
19 largest states in the country but wine per capita we are
20 actually not very high.

21 Again, I look forward to continuing the
22 dialogue. I know we have many people testifying and we
23 are way behind. But actually, as you know because we've
24 had round tables, many of the wineries in New York State

1 don't agree with your position.

2 And so, what's interesting about this whole
3 dilemma is that there are very, very different opinions
4 about what would happen and there's very different
5 findings from research in other states where they, in
6 fact, do allow sale of wine in supermarkets and do allow
7 a much more open capital market for liquor stores and,
8 in fact, it's gone very well in many states.

9 MS. ENDRES: Senator, can I ask you what
10 states have changed their law at the expense of
11 independent business stores? The states in Washington
12 and Vermont were state run stores and then they expanded
13 their outlets, but no other state has done it at the
14 expense of the independent business owner, as far as I
15 am aware.

16 The other states that sell in the grocery
17 stores have done so either since prohibition or they
18 have added them because the state run liquor stores
19 could not supply the state.

20 I understand your position that other states
21 co-exist, but other states have different excise taxes
22 on their liquor. If you give us extra liquor stores it
23 won't mean a thing to us because you don't make any
24 money on the liquor side of the business.

1 So, I would respectfully say that these
2 compromises -- you can't compare other states. When
3 we've got our liquor licenses and it said one store, one
4 ownership, and we invested our livelihood and we have a
5 mortgage, and we have two young children, if you had
6 told me I was going to be competing in a marketplace
7 with big box stores and convenient stores, I certainly
8 wouldn't have bought a license or opened a store.

9 So, to change the rules in the middle of it
10 at the expense of independent business owners is very
11 discouraging.

12 MR. GOREA: Let me just say one thing. I
13 have been with the union for over 23 years and I've
14 never had an issue that brought so many people together
15 -- union people, distributors, wineries, independent
16 store owners. I mean last year when we came out against
17 this proposal we were getting letters from independent
18 businesses thanking us, thanking the union for standing
19 up against this proposal and coming out with the truth.

20 So, when you say that there's so many people
21 against it, we are not seeing it. In this day and age
22 when unions are getting bombarded with negative things,
23 to have independent owners call us up and write us
24 letter and send us e-mails thanking us, and to have

1 distributors, the union, Local UFCW 2D and the
2 distributors that they represent, and the bottlers that
3 they represented, I mean the distributors are against
4 this, the people that haul it are against it, the
5 salesmen are against it.

6 Many -- the majority of the wineries are
7 against. There's not a liquor -- Governor Paterson,
8 with all due respect, he can write a million letters to
9 the liquor store owners saying how good this is going to
10 be, but that's simply not the case and these liquor
11 store owners are in for a rude awakening when they have
12 to -- you know, forget about Price Chopper and
13 Hannaford.

14 When they have to go against Cosco and
15 Wal-Mart, and where they are going to take those profits
16 and leave here, now, I can see Assemblyman Morelle, who
17 happens to be my wife's cousin, I can see him, yes,
18 because he's in a Wegman town, yes, some of it's going
19 to be fantastic, but the majority of it is going to go
20 to Bentonville, Arkansas and going to go to Cosco. It's
21 going to go to Whole Foods. All out of state
22 enterprises.

23 So, when you can get the union together with
24 small businesses and wineries, and distributors and

1 Teamsters and everyone is on the same -- and troopers,
2 state troopers, this get me out of a ticket -- when you
3 can have all these people together in one group, I can't
4 see how you say there's so much things on the other
5 side, I don't get, but we can agree to disagree.

6 Our unions work together with you and I am
7 sure we are going to work together on other things, but
8 this is one thing I can say: We don't get too many
9 letters in the mail -- I can let you read our mail --
10 that are very, very positive.

11 SENATOR KRUEGER: For the Teamsters
12 delivering, it's not that the supermarkets will be able
13 to go pick up so there will be just as many, in fact,
14 more distribution.

15 MS. ENDRES: I didn't hear what you said.

16 SENATOR KRUEGER: The people who deliver
17 wine to a larger number of outlets, those will still
18 remain union jobs and supermarkets are not allowed to go
19 and pick up the product. So, in fact, that continues.

20 MR. GOREA: When you think about the economy
21 of it, I am sorry, Senator, these are long answers, but
22 when you think about the economy of it, you have a Price
23 Chopper, and they are right over here in Schenectady,
24 they are going to get tractor trailers delivered to

1 Schenectady and then they are going to self distribute
2 it to the rest of their stores.

3 So, I mean, that's going to be one delivery,
4 one tractor load, Wal-Mart's going to self distribute.
5 When you can put a thousand liquor stores out of
6 business, you are going to take away a lot of the
7 distribution points.

8 SENATOR KRUEGER: They are not allowed to do
9 warehousing of the wine under the Governor's rule, so,
10 actually, that wouldn't be accurate. Again, the state
11 is very different. I come from New York City where we
12 don't have, actually, a big box model of supermarkets.

13 It's thousands of individual stores that are
14 in communities also small businesses.

15 MR. GOREA: I was in New York over the
16 weekend and I was driving down the street. Every three
17 blocks there's a liquor store and a wine store. I'm
18 thinking, my god, all these grocery stores can have them
19 and they're not going to add any new employees.

20 That's the thing you have to think about.
21 These stores are not going to add new employees.
22 Wegmans is not going to add one new employee. Price
23 Chopper will not add one new employee. My biggest
24 employers are not going to add employees. I'm not

1 talking about the non-union places. The union places
2 aren't going to add employees.

3 This is just going to be like instead of our
4 members putting Pampers on the shelf they are going to
5 be putting Kendall Jackson, they are going to be putting
6 a different kind of boxed wine on the shelf.

7 And I was in Fredericksburg, Virginia and
8 went into a Wegmans, and they had two New York State
9 wines. They had Konstantin Frank and they had a Swedish
10 Hill. That was it. I looked on their website -- and
11 you all can go on there and look -- they have not once
12 in 52 weeks picked a New York State wine for their wine
13 of the week.

14 There is a New York company, a great New
15 York State company that employer of the year, everything
16 else. When they have the chance to put a wine on the
17 map, they haven't picked a New York State wine once, not
18 one time.

19 That's the thing where, I'm thinking, where
20 is this all going to go? This is really a job killing
21 proposal, and that's what I'm here for.

22 MS. ENDRES: There are mom and pop grocery
23 stores that would benefit, but there's not anybody up
24 here that's proposing that you take 40 percent of a mom

1 and pop grocery store and cut their business in half by
2 45 percent or they would be here lobbying against it as
3 well because they are not going to go out of business if
4 they are not allowed to sell wine, whereas we will.

5 So, respectfully, they went into business to
6 sell wine and to sell cheese and crackers, and if they
7 have a beer license beer. They didn't go in business to
8 sell wine. You're not taking anything away from them.

9 So, yes, they might have more profits but
10 you are doing it at our expense. And the communities
11 that don't have wine stores, it's not a monopoly.
12 Anybody can open a wine store if a community has a
13 demand for it. You just apply. As long as you are not
14 a felon, you can pretty much get a license in the State
15 of New York to open a wine store anywhere you want and
16 anywhere you would like to.

17 MR. OUWELEEN: There is so much effort and
18 interest in helping New York State wineries advance,
19 understanding the impact they have on local communities
20 and tourism. I do want to applaud you for that. My
21 appreciation is sincere.

22 There are opportunities for the legislature
23 to continue to help the New York wine industry to grow.
24 We have trade barriers with Canada, though NAFTA was

1 passed some time ago. Canadians are only allowed to
2 bring in two bottles of wine from their travels through
3 the Finger Lakes wine industry, and they are heavily
4 taxed for anything beyond that.

5 But Americans can go to Niagara on the Lake
6 and load their truck up with Niagara on the Lake
7 Canadian wine and bring it in for a relatively low fee.
8 So, really with tourism being a large -- much more
9 impactful area for Finger Lakes wineries than with
10 supermarket sales, we would love to see our elected
11 representatives at every level discuss with our Canadian
12 neighbors the equally in spirit of that -- that out of
13 balance tax scenario, as well other states in the union
14 that border New York have very restrictive policies
15 about importing New York wine.

16 CHAIRMAN KRUGER: If we can just...

17 MR. OUWELEEN: So, there are ways to help
18 the industry but I don't think wine in supermarkets
19 holds the promise that proponents of it have alleged.

20 CHAIRMAN KRUGER: Thank you.

21 I just wanted to make one quick observation.
22 I represent the southern tier of Brooklyn, which has one
23 of the largest Russian populations outside of what was
24 the former Soviet Union. I did a little head count

1 myself and we've opened up in the last less than two
2 years 12 new wine and liquor stores.

3 They are always next to a supermarket. And
4 interestingly enough, in Brooklyn, so far in the last 15
5 months, three BJ's and two Coscos have opened up. I dare
6 say that they will blow away anybody in their
7 neighborhood.

8 How many bottles do you produce? How many
9 cases?

10 MR. OUWEELEEN: We produce about 15,000 cases
11 a year, about 3,000 of those --

12 CHAIRMAN KRUGER: 15,000 cases. How much
13 would you say an 18 wheeler would hold?

14 MR. OUWEELEEN: That's a good question. We
15 don't -- we deliver on a small truck so I don't know.

16 CHAIRMAN KRUGER: If Cosco were to order two
17 18 wheelers you couldn't supply them; am I correct?

18 MR. OUWEELEEN: We could not.

19 CHAIRMAN KRUGER: You could not. You would
20 have to go out of business.

21 MR. OUWEELEEN: We would. Many New York
22 wineries are not scaled to produce -- to stock
23 supermarket shelves nor do we want to.

24 CHAIRMAN KRUGER: But many -- but the big

1 guys are.

2 MR. OUWELEEN: Correct. And they would eat
3 us for lunch. That's our primary concern.

4 MS. ENDRES: The California wines, and the
5 people -- the Kendall Jacksons, there would be some --
6 they would stock New York wines, especially Wegmans,
7 there's some grocery stores that would do better than
8 others. Whole Foods perhaps would, but the majority of
9 them are either Coscos and BJ's.

10 CHAIRMAN KRUGER: By the way, let's get out
11 of the milieu of grocery stores. There are no more
12 grocery stores. There may be walk up supermarkets,
13 which are very, very few and far between. In Manhattan
14 there may be more because, obviously, because traffic
15 allows it.

16 But all supermarkets, if don't open up
17 55,000 square feet today then you can't stay in
18 business. So, all the Pathmarks, all the Shop Rites,
19 all the medium size guys, which actually in the world
20 that I came from were the supermarkets, the supermarkets
21 would destroy the 12 new stores that are in my
22 neighborhood.

23 Thank you very much.

24 New York Wine Industry Association, Scott

1 Osborne.

2 Good afternoon.

3 MS. CARLSON: Good afternoon. Thank you for
4 having us here today. Actually, Scott Osborne is unable
5 to be here today so I will be presenting his testimony
6 on his behalf and on behalf of the New York Wine
7 Industry Association.

8 My name is Jennifer Carlson and I represent
9 them. And also on our panel we have some other folks.
10 Apparently the schedule possibly could have gotten
11 turned around a little bit, but I will let the other
12 folks introduce themselves.

13 MR. TONES: Greg Tones from Clear View
14 Vineyards.

15 MS. YOUNG: I'm Kelly Young from the New
16 York Farm Bureau.

17 MS. CARLSON: I don't really know where to
18 begin after the last panel, but I think I will start
19 with something that's very important and I think we can
20 disburse with it quite quickly.

21 Why don't we talk about the underage
22 drinking a little bit because I find that it's been used
23 as -- we will call it a red herring, so that way the
24 liquor industry can avoid discussing the real facts and

1 issues surrounding this particular proposal.

2 There is an organization called the Century
3 Council. It's a non-profit organization funded by the
4 distillers, national. They do a tremendous amount of
5 research on underage drinking and drunk driving. They
6 put together a fabulous program that they roll out
7 across the United States.

8 I have for you, since I was prepared, a
9 little bit of information that we can have passed out.
10 This comes directly from their website from the liquor
11 industry. Research commissioned by the Century Council
12 reveals that 65 percent of underage youth who drink
13 obtain alcohol from family and friends. Equally
14 important, only seven percent of the youth report that
15 they obtain alcohol from retailers who failed to check
16 for identification.

17 It is the Century Council's conclusion that
18 the issue is not underage drinkers buying alcohol in
19 retail establishments; any retail establishments, be it
20 liquor stores, grocery stores or wherever else in other
21 states they are able to sell alcohol.

22 What they have established is that there is
23 a lack of parental control and parental observation.
24 And in fact, they have signed a program called 65

1 Percent to raise awareness that that is where the focus
2 needs to be for underage drinking.

3 I commend the law enforcement of this state
4 for their new group that they have come up with the lead
5 organization, and I do believe that there is a
6 tremendous amount of work for them that will be
7 necessary in order to deal with some of the underaged
8 drinking problems that we are faced with; however, it
9 has nothing to do with this particular proposal.

10 So, I will leave these for you folks.
11 Possibly a staff member could pass them up to you so you
12 could read it for yourselves, but I'd be happy to bring
13 it to your office if you need any further clarification.

14 I think possibly I would allow the winery to
15 speak for himself first.

16 MR. TONES: I am not really that great of a
17 speaker. I work outside, talk to grape vines most of
18 the time so bear with me a little bit. So, I'm just
19 going to read my statement.

20 Thank you for the opportunity to speak today
21 regarding this critical issue from my family farm and my
22 own future in the grape business in New York State. I'm
23 here speaking on behalf of myself as a partner at Clear
24 View Vineyards, and also a New York Farm Bureau member

1 Orleans County.

2 Clear View Vineyards is a grape farm located
3 on the shores of Keuka Lake in the heart of the Finger
4 Lakes wine country. My dad, his two brothers, my two
5 cousins and I farm 400 acres of grapes and 250 acres of
6 hay.

7 Clear View consists of 18 different
8 varieties of grapes which are sold to six different
9 wineries in the Finger Lakes. I have been working full
10 time since 1999, but I've worked on the farm since I was
11 a little kid. Sometimes because I wanted to. Sometimes
12 because my dad made me.

13 Growing grapes is not a job, but it's a
14 passion of mine to produce the best product I can in New
15 York State. As a grape grower and a younger individual
16 involved in food and farming, I can tell you that this
17 is absolutely critical to support Governor Paterson's
18 proposal to allow the sale of wine in grocery stores.
19 The simple fact of the matter is the number of outlets
20 for liquor stores has increased over time, and the
21 number of wineries in New York State has grown
22 tremendously.

23 The fact that the growth trend for wineries
24 is increasing while the growth trend for liquor stores

1 is decreasing matters a great deal to my business and my
2 future in New York. While other states with sustainable
3 grape farms have lead the way for the farmers to grow
4 even more by allowing the sale of wine in grocery
5 stores, New York has yet to do so. In fact, New York
6 State has been willing to make many small changes to the
7 law to allow farm wineries to innovate, which we
8 appreciate, but yet has to take the initiative to move
9 the bar farther by leading the way and eliminating the
10 monopoly liquor stores current have over wine sales.

11 However, from a grower's perspective a look
12 at the grape statistics is telling. While New York
13 consistently ranks in the top four to five highest grape
14 producing states, the reality is that we are being
15 outpaced rapidly by states that support their grape
16 farmers by allowing the sales of wine in grocery stores.

17 Both Washington and Oregon have
18 significantly increased their production of wine grapes.
19 In 2004, Oregon had 193 wineries and produced 18,000
20 tons of wine grapes. In 2008, they had 320 wineries and
21 doubled the production to 40,000 tons of grapes.

22 Washington also had 300 wineries in 2004,
23 and 107,000 tons of wine grapes produced. In 2008, the
24 number of wineries had more than doubled to 650 wineries

1 and 145 tons of grapes.

2 The rhetoric around this issue is overheated
3 and ridiculous. It is preposterous to think that all
4 liquor stores on Main Street will disappear, especially
5 when there are 570,000 New York Main Streets with no
6 liquor stores. That's 570 towns full of people who
7 cannot purchase New York State wine made with my grapes.

8 It's preposterous to think that my family
9 farm won't expand or my neighbors who make New York
10 State wine, great New York State wine, can't thrive in
11 an environment where sales of wine are expanded to
12 include grocery stores.

13 The proof that everyone can survive in this
14 environment includes the sale of wine in grocery stores
15 can be found simply in other states. While the growth
16 of wineries and grapes has exploded in both Washington
17 and Oregon, the number of liquor stores has remained
18 constant or larger. Both states are control states,
19 however, the fact that both states allow the sale of
20 wine in grocery stores and are able to generate
21 substantial profit to their states from their liquor
22 stores indicates that all parties involved in the sale
23 of wine and liquor can adapt, and in fact grown, under
24 the system.

1 Customers clearly are purchasing wine and
2 liquor from liquor stores while also purchasing wine
3 from grocery stores, and the industry is vibrant,
4 healthy and sustainable. This growth is something that
5 I would like to see happen in New York State. As a
6 young farmer, I welcome the growth and the challenge
7 that will need to be met to supply the wine and grocery
8 stores.

9 There is still viable agriculture land in
10 the Finger Lakes that simply felled and undeveloped
11 would make excellent vineyards. I want to grow my
12 family's business and be able to continue farming and be
13 able to some day sell it on to more generations. I am
14 the future of farming. I am one of the younger ones
15 that's getting involved in the farming.

16 I would ask your support and ask you to
17 support Governor Paterson's executive budget proposal to
18 allow the sale of wine in grocery stores. I thank you
19 for your time and attention.

20 SENATOR KRUEGER: Are you going to testify
21 from the Farm Bureau as well?

22 MS. YOUNG: Very briefly. I just want to
23 underscore what Mr. Tones and other growers like him
24 have said. New York Farm Bureau has supported the sale

1 of wine in grocery stores for 30 years and we do this
2 because it really offers and opportunity for our grape
3 growers to expand their markets.

4 When New York State allowed the sale of wine
5 coolers in the 1980s in grocery stores, wine was
6 actually put into wine coolers, it was one of the best
7 times for our grape growers in New York State. It's
8 interesting to note that if all the liquor stores in New
9 York State sold solely New York State wine there still
10 wouldn't be enough shelf space for all the products, the
11 breadth and diversity of products that our New York
12 State grape growers provide and produce.

13 The plan for wine in grocery stores allows
14 our growers more than 16,000 potential new outlets for
15 their products, and this is a great business opportunity
16 for the growers in our state from all areas of our
17 state, from Long Island to the Finger Lakes to western
18 New York.

19 Liquor store outlets, as we said, have been
20 declining. Our farm wineries have been on the increase
21 and they are doing thriving businesses. So, we need to
22 really support these businesses and give them more
23 opportunities. We are talking about family owned
24 vineyards and farm wineries.

1 We support the sale of wine in grocery
2 stores. Thank you.

3 CHAIRMAN KRUGER: Questions?

4 You mentioned 16,00 potential new retail
5 locations. What would they be?

6 MS. YOUNG: Grocery stores.

7 CHAIRMAN KRUGER: Just grocery stores? You
8 wouldn't sell them in gas stations and convenient
9 stores?

10 MS. YOUNG: New York Farm Bureau doesn't
11 have a position on those other outlets. We certainly
12 think that wine goes well with food and grocery stores
13 provide a great location for those two.

14 CHAIRMAN KRUGER: We are talking about like
15 a 711, that would be a grocery store by definition?

16 MS. CARLSON: By definition, State Liquor
17 Law right now, because there is no separate
18 classification for convenient stores, any store that
19 sells a certain percentage of food items is considered a
20 food store under the State Liquor Law.

21 So, the answer to your question is they
22 would all be.

23 CHAIRMAN KRUGER: Under those guidelines
24 they would be eligible?

1 MS. YOUNG: If they so chose to put wine on
2 their shelves, they would be included, yes.

3 CHAIRMAN KRUGER: They would be. So, now, I
4 guess it's a question for you.

5 Where do you think is a safer venue to sell
6 an alcoholic product, in a store that just sells alcohol
7 or a store that sells alcohol and Tide detergent?

8 MS. CARLSON: Well, they are all regulated
9 under the same law and they are all obligated to abide
10 by that law. So, if, in fact, any retail establishment
11 is regulated in that way then they are a safe place to
12 sell alcohol.

13 CHAIRMAN KRUGER: I see. So, when we talk
14 about cigarettes, for example, do you think that a place
15 like small bodega might, God forbid, sell unstamped
16 cigarettes?

17 MS. CARLSON: I really am not educated
18 enough to speak on that. I don't think anybody should
19 be smoking.

20 CHAIRMAN KRUGER: Do you think Wegmans would
21 sell unstamped cigarettes?

22 MS. CARLSON: I don't believe Wegmans
23 actually sells cigarettes.

24 CHAIRMAN KRUGER: How come?

1 MS. CARLSON: I think it's against their
2 core values.

3 CHAIRMAN KRUGER: What's their core value?

4 MS. CARLSON: I can't speak for Wegmans
5 because I don't represent them, but I know they don't
6 sell cigarettes.

7 CHAIRMAN KRUGER: Do you represent any
8 supermarket chain?

9 MS. CARLSON: I represent the New York Wine
10 Industry Association. That's who I am here to speak on
11 behalf of. I'm not authorized to speak on behalf of
12 anybody else today.

13 CHAIRMAN KRUGER: If a supermarket doesn't
14 sell cigarettes because it wouldn't be in their core
15 value, then they sell beer, though, that's their core
16 value?

17 MS. CARLSON: Beer in moderation, as well as
18 wine in moderation, in some studies is considered
19 healthy.

20 CHAIRMAN KRUGER: Some people tell you
21 cigarettes, too, in moderation.

22 MS. CARLSON: They are wrong.

23 CHAIRMAN KRUGER: I guess the point that I'm
24 making: If we want to police something better it would

1 get policed better in a liquor store than it would in a
2 small walk up bodega, or a small drive up.

3 Right now stock up on wine, get into your
4 car, fill your car with gasoline and get on your way. I
5 understand all the bells and whistles.

6 MS. CARLSON: When you come out of a liquor
7 store you get in your car and drive away. I really
8 don't see the difference.

9 CHAIRMAN KRUGER: There is a distinct
10 difference. First of all, liquor stores aren't open 24
11 hours a day, are they?

12 MS. CARLSON: Not currently. In the next --
13 in the Governor's proposal it extends the hours so they
14 can be competitive.

15 CHAIRMAN KRUGER: So, they could be open 24
16 hours a day?

17 MS. CARLSON: It extends the hours so they
18 can be competitive.

19 CHAIRMAN KRUGER: Competitive with whom?

20 MS. CARLSON: Competitive with other stores
21 that are allowed to sell alcohol. Currently the liquor
22 stores in the state actually are not able to be
23 competitive and they certainly are not able to be
24 responsive to their consumers.

1 The Governor's proposal actually outlines
2 quite a few pieces of legislation that would help them
3 be competitive in the current environment with or
4 without wine sales and other outlets.

5 CHAIRMAN KRUGER: Could you please explain
6 that to me.

7 MS. CARLSON: Which part of it?

8 CHAIRMAN KRUGER: How they would be more
9 competitive.

10 MS. CARLSON: Well, we do have liquor
11 stores, and I have a letter here from one of them that
12 was submitted to you that explains how they need to be
13 more competitive and explains how the current system and
14 laws have stifled their group, and how it's very
15 difficult for them to be responsive to their consumers
16 in the current environment, and that they would like to
17 be able to sell other products, they would like to be
18 able to open other stores, they would like to grow their
19 business just like any other retailer in the State of
20 New York.

21 CHAIRMAN KRUGER: Well, they can grow their
22 business. They can open up a grocery store if they
23 want. You can diversify.

24 MS. CARLSON: Well, a grocery store is not a

1 liquor store nor --

2 CHAIRMAN KRUGER: I guess under the
3 Governor's proposal we will allow them to sell pretzels
4 and potato chips.

5 MS. CARLSON: I think that grossly
6 understates what the proposal has --

7 CHAIRMAN KRUGER: Thank you very much.

8 MS. CARLSON: -- as the doctor has in his
9 letter.

10 CHAIRMAN KRUGER: Thank you.

11 SENATOR KRUEGER: Assembly, is there any
12 questions? Thank you.

13 It's my understanding that the same universe
14 of stores we are talking about allowing to sell wine and
15 allowing to sell wine at later hours already sell beer
16 and wine cooler products; is that correct?

17 MS. CARLSON: That is correct.

18 SENATOR KRUEGER: So, in fact, I can drive
19 to a 711 or a supermarket or somewhere that sells gas as
20 well and I can buy beer and wine coolers now currently;
21 is that correct?

22 MS. CARLSON: That is correct.

23 SENATOR KRUEGER: Thank you. So, in fact,
24 it's not shifting the universe of where you can buy

1 alcohol in the State of New York. It's simply adding
2 wine to the list of products you might be able to sell.

3 MS. CARLSON: It's the exact same places.
4 Not to mention the fact that it clearly states in the
5 study that that is not where youth are getting alcohol.

6 SENATOR KRUEGER: That was a follow up
7 question. It's my understanding there have been
8 national studies by police enforcement organizations
9 showing both, A, where underage drinkers are illegally
10 buying alcoholic products; and the correlation or lack
11 thereof between the ability to buy wine in supermarkets
12 and underage drinking and driving.

13 Are you familiar with it?

14 MS. CARLSON: Yes, I am. The FBI has done
15 studies that statistically show there is no correlation
16 between states that sell wine in expanded outlets such
17 as grocery stores, and increase incidences of underaged
18 drinking and drunk driving.

19 I think, briefly, I was not able to really
20 go through the testimony for the wine industry and the
21 effects of inaction on this particular proposal, what it
22 will do to the New York State wine industry right now.

23 I think that the focus on the grocery
24 industry is not really where this needs to be as far as

1 an economic development issue is. The economic
2 development issue has to do with wineries, grape growers
3 and the supplier companies, which is who I am here to
4 actually speak on behalf of.

5 So, if you would give me a moment, I would
6 like to run through some of the very critical points
7 that are necessary to understand what is happening to
8 this industry right now. Not what could happen to the
9 industry, not what might happen to the industry, but
10 what is currently happening right now.

11 We have a critical problem with the grape
12 growers in the state. They are dumping half of their
13 grapes on the ground, and this isn't juice grapes.
14 These are wine grapes. It is because the wineries,
15 their growth has been stifled, so their tanks are full
16 and they not able to buy more grapes so the grape
17 growers are dumping the grapes. It's a very connected
18 industry and it's much larger than just wineries.

19 You have regions of the state that the
20 economic engine is the wineries. It drives the tourism,
21 which drives the little restaurants, which drives the
22 little shops, which drives all of the other small
23 businesses that survive on that tourism. Without the
24 wineries -- and believe me, it will happen because they

1 cannot grow and they cannot sustain in this particular
2 environment.

3 Without them, you know what? Liquor stores
4 may very well be the last store on Main Street because
5 everybody else will be gone. I don't know who will be
6 buying their liquor.

7 Quite frankly, the wine industry needs
8 serious help. They need more outlets. I have never met
9 a sane businessman that said I don't want more outlets
10 to sell my product. It just defies all logic. The Farm
11 Bureau, their folks voted unanimously to support wine in
12 grocery stores.

13 Why do you think that is? It's because they
14 recognize the critical state that this industry is in.
15 And quite frankly, upstate New York doesn't have too
16 many possibilities. I am from upstate New York. I know
17 what they are looking at. This is a potential growth
18 industry and it would be a huge disservice to all the
19 folks upstate to completely ignore this for emotional
20 arguments that have no basis in any of the numbers that
21 they are giving you.

22 They have never been forced to show support
23 for a thousand stores going out of business, or 4,000
24 jobs lost. Where is the information that supports that?

1 Everybody just takes it on as their mantra.

2 So, you know what? The New York Wine
3 Industry Association asks that the legislature hold them
4 accountable for the claims that they are making. At
5 least do that before you turn your backs on us. Make
6 sure that the information they are giving you is
7 actually correct.

8 We ask that of you as an entire industry
9 because we will fail if we are not given more markets to
10 sell the product. It is that simple.

11 SENATOR KRUEGER: In follow up, I wanted to
12 thank you for coming in and testifying. And I saw that
13 you were so nervous. You don't do this every day.

14 On that note, I have met with many wineries
15 and talked to the Farm Bureau and Wine Association, so I
16 believe that there is a shortage of outlets for you to
17 be able to be competitive in and to sell your wine in.

18 I just want to ask you: Is it your
19 experience that other wineries have the same story that
20 you have?

21 MR. TONES: We mainly sell just grapes to
22 wineries, so I'm dealing with six different wineries,
23 and the last year most of our wineries told us that they
24 couldn't take what they took the year before because

1 they are holding on to two or three years' worth of
2 inventory.

3 They are not moving their product. So, they
4 are coming back to us. And we get grapes every year if
5 we take care of them, so, we can't just not stop
6 producing our product. They are coming back to us, we
7 got to try to move them and work with us to find another
8 market, but a lot of time that market is a lot lesser
9 price or it's on the ground.

10 SENATOR KRUEGER: Thank you.

11 And then also follow up with the Wine
12 Association. In other states that have much larger
13 numbers of outlets for wine sales in New York State, and
14 who also have local wine industries, is it your
15 experience that the local wineries have more difficulty
16 selling their product when there's more outlets for
17 their product?

18 MS. CARLSON: It provides them very unique
19 opportunities because, as much as people talk about the
20 big box grocery stores, we have 12,000 independent
21 grocers in this state.

22 And outside of New York City that includes
23 very small grocery stores, not some with the square
24 footage you were talking about. These folks actually

1 look for unique products that their local folks are
2 responsive to because there is a huge local movement out
3 there as far as food choices, and New York State
4 product, and that includes New York State wine.

5 We believe the availability of this wine to
6 consumers in some of the smaller markets will help some
7 of these smaller wineries grow. Most of these wineries
8 have no interest in being in Wal-Mart. It's not their
9 target customer, but there are stores out there that do
10 serve as their target customer.

11 Scott Osborne used as an example, and I will
12 take it from testimony, he currently, for all the time
13 that he's been doing this, and he's one of the more
14 established wineries in the Finger Lakes region. He's
15 actually in about 18 percent of the liquor stores in the
16 state.

17 He hasn't been able to grow that in quite a
18 few years, and he goes out there with the distributor
19 store to store to try and get his product in. His point
20 is is that if he gets into 18 percent of the grocery
21 stores in the state, just 18 percent, he will have to
22 triple his business.

23 So, it's not a matter of all or nothing, and
24 it is certainly not black and white, but there is a

1 market for every wine and a wine for every consumer.
2 However, if the consumer doesn't see it on the shelf, I
3 don't care how much money you pour into marketing, if
4 it's not there you are not buying it.

5 CHAIRMAN KRUGER: Thank you.

6 SENATOR KRUEGER: Thank you very much.

7 CHAIRMAN KRUGER: New York State Hospitality
8 and Tourism.

9 MS. CHESTERTON: In the spirit of
10 hospitality I will try to keep this brief and give you a
11 summary of the testimony that you all have in front of
12 you.

13 My name is Jan Chesterton and I'm the Vice
14 President of the New York State Hospitality and Tourism
15 Association, and a representative of the Tourism
16 Industry Coalition of New York State.

17 I would like to start by thanking Senator
18 Kruger and Assemblyman Farrell for the opportunity to
19 comment on the economic development budget items
20 included in the 2010-2011 executive budget proposal,
21 specifically tourism marketing, more commonly known as I
22 Love New York and the tourism matching grants program.

23 The New York State Hospitality and Tourism
24 Association, or NYSHTA, is the oldest lodging

1 association in the country, founded in Saratoga Springs
2 in 1887. We have nearly 1400 member businesses and
3 individuals in the lodging and attractions industry, and
4 we currently represent 70 percent of the total lodging
5 room inventory in the state.

6 The Tourism Industry Coalition represents 18
7 private sector industry organizations with tourism as
8 its core product.

9 NYSHTA commends the Governor for his
10 proposal of a budget that limits spending and addresses
11 the deficit facing our state. The Tourism Industry is
12 nearly unparalleled in its ability to turn investments
13 into revenue. The immediate impact of investments in
14 the tourism industry is something that few other
15 industries can offer.

16 Studies have shown that investment in
17 tourism marketing is a return of seven to one. Simply
18 put, the state receives \$7 for every \$1 in tourism
19 spending. The businesses that make up the tourism
20 industry understand what it takes to balance a budget.

21 The tourism industry has also been affected
22 by the downturn in the economy and owners and operators
23 have had to make tough decisions that could make or
24 break their own businesses. While the reduction in

1 overall state spending is imperative, it's also
2 necessary to make investments that will return revenue.

3 The tourism industry is just that
4 investment. I'm here on behalf of the industry to urge
5 the legislature to maintain the current funding level,
6 \$14.2 million, for state tourism marketing rather than
7 accept the Governor's allocation of \$10.6 million for
8 the I Love New York program and the tourism matching
9 grants.

10 As a proven track record as a revenue source
11 for the state and local coffers, tourism is not only a
12 wise investment but a critical one that yields unmatched
13 return for the state economy. The tourism industry
14 keeps metrics of its performance each year and these
15 statistics prove the industry benefits to state and
16 local regions.

17 According to a recent report in 2008,
18 visitors spent \$53 billion into the state and local
19 economy, an increase of four percent over the prior
20 year, and 684,000 jobs were sustained by visitors in New
21 York State.

22 Tourism in New York generates \$7 billion in
23 state and local taxes last year. Tourism is not only
24 provides billions of dollars in tax revenue, but it also

1 creates jobs at significant rates. The same study
2 showed that the last 20 years tourism jobs have
3 increased over 22 percent compared to an increase of
4 less than six percent for the rest of the private sector
5 employment.

6 Investing in tourism provides jobs to all
7 communities all over the state, where other industries
8 are laying off workers, straining families and leaning
9 on public assistance. The state has many programs that
10 are aimed at creating jobs. Tourism does just that.

11 The State of New York has a lot to offer the
12 leisure traveler, however, it's up to us to ensure that
13 the traveler is made aware of this. Packaging
14 information, advertising and promoting transportation,
15 accommodations, entertainment, shopping, natural scenery
16 and special events is crucial to creating awareness and
17 a demand for our destinations.

18 Tourism marketing programs are investments
19 that result in visitor spending, which in turn results
20 in tax revenues. Any reduction in the state's tourism
21 marketing budget this year would place us at a
22 disadvantage as we compete with neighboring states for
23 the traveler's top of mind awareness.

24 Pennsylvania has outspent and outperformed

1 our tourism funding for years, and any further cut would
2 handicap our tourism marketing to a point where the
3 level of success we have enjoyed previously might be
4 lost completely.

5 Funding tourism should not be viewed as an
6 expense, but as an investment. An investment provided
7 to a tourism marketing program may, for example, assist
8 a hotel in its own marketing efforts. Any benefit
9 provided to a hotel would be felt by the entire
10 community, as patrons eat in restaurants, spend in shops
11 and visit destinations.

12 In each of these instances state and local
13 taxes are providing a return on that investment.
14 Tourism contributes to every sector of the economy in
15 each region of the state.

16 With a budget deficit reaching \$9 billion
17 the state is in need of revenue generators. Investment
18 in tourism marketing not only complements and leverages
19 the I Love New York program, but it provides jobs and
20 economic benefits for businesses and municipalities that
21 can help the state close its deficit.

22 With a deficit of the magnitude currently
23 facing the state, and an industry that can be relied
24 upon to produce revenue, additional funding to tourism

1 can be the cornerstone of the revenue increasing budget.

2 As indicated earlier, in 2008 tourism
3 provided \$7 billion tax revenue throughout the state and
4 local taxes. While the request to keep the tourism
5 funding at the same level, \$14.2 million, may be
6 questionable at best, it comes as a request for
7 investment with an accurate and proven record of return
8 on that investment.

9 The tourism industry will continue to work
10 hand in hand with the Governor and the legislature to
11 strengthen the economy of our great state.

12 In conclusion, NYSHTA and the entire
13 hospitality and tourism industry is calling upon the
14 Governor and the legislature to support, maintain the
15 funding for tourism marketing, thus allowing the
16 industry to return to the state's investment seven times
17 over and help restore New York to its preeminent
18 position as the number one destination in the country.

19 Thank you.

20 CHAIRMAN KRUGER: Thank you.

21 Any questions?

22 ASSEMBLYMAN ENGLEBRIGHT: Thank you for that
23 very cogent presentation and I am very encouraged to see
24 the kind of quantification and analysis that you put

1 before us. I hope that my colleagues on both sides of
2 the aisle become aware of your words. I'm going to do
3 everything I can and hand out your testimony to members
4 of my committee, for a start.

5 I was, quite frankly, surprised at the level
6 of the cut that the Governor has proposed. Did you have
7 any indication that this was coming in the budget?

8 MS. CHESTERTON: I don't know that we did.
9 I think we were hoping for at least maintaining what was
10 in the budget for the past year. Any decrease, again,
11 as I indicated, would be counterproductive.

12 ASSEMBLYMAN ENGLEBRIGHT: Given that this is
13 such a muscular generator of revenue for the state, it
14 would seem that this is unwise. And so that's why it
15 was so surprising.

16 MS. CHESTERTON: We certainly, as a revenue
17 generator, I mean it wouldn't be prudent to be asking
18 for \$20 million over the ten, but certainly to maintain
19 the current levels we feel is what will keep the
20 economic engine going in the tourism industry.

21 ASSEMBLYMAN ENGLEBRIGHT: You stated your
22 case very well, and I just want to say thank you for the
23 excellent presentation.

24 CHAIRMAN KRUGER: Senator DeFrancisco has a

1 quick question.

2 SENATOR DEFRANCISCO: As former Chairman of
3 the Senate of the Tourism Committee, for many years I
4 attempted to get a dedicated funding source for tourism
5 because I can't imagine how anybody decides how you are
6 going to market anything when you don't know what money
7 you have to market with.

8 Has there been any progress recently of
9 dedicated funding source out of a certain tax revenue or
10 something like that?

11 MS. CHESTERTON: I am somewhat familiar with
12 what you had done in years past. I don't know that
13 there is any specific being presented or talked about
14 but I can certainly do a little research and follow up
15 on that.

16 SENATOR DEFRANCISCO: I'll check it out. I
17 was just curious whether you knew, but that's the only
18 way this type of thing is going to stop. And it's
19 tragic, and I agree with the Assemblyman that if you
20 don't market your product you're going to lose
21 substantial revenues and it just seems foolhardy to not
22 market your product because we have a great product.

23 Thank you.

24 CHAIRMAN KRUGER: Seeing that this budget

1 was crafted after like a family restaurant, you make the
2 portions smaller and you raise the prices, what we
3 should be doing is pouring money into tourism in the
4 hope that we bump up business but, in any event, thank
5 you very much for being here today.

6 New York State Theater Institute.

7 MR. MORRIS: Thank you very much.

8 Good evening. My name is David Morris and
9 I'm Chair of the Board of New York State Theater
10 Institute. I know that some of you were here last year
11 when we spoke in opposition to a previous governor's
12 proposal to merge NYSTI with the Egg. We are not always
13 negative about things, we do try to be positive, but
14 we're here again with a negative response to the
15 Governor's budget proposal.

16 Yesterday afternoon, my wife and I had the
17 pleasure of attending a performance at NYSTI of Agatha
18 Christie's And Then There Were None, directed by NYSTI's
19 own David Buntz, who is a member of our company at the
20 Theater Institute in Troy.

21 The performances, in my opinion, are
22 awesome. Virtually all the members of our company are
23 here this afternoon to join in opposition to NYSTI's
24 virtual destruction by this budget. I will ask them --

1 I know you've seen the shirts, but I will ask them to
2 stand up and show how many shirts are here in support of
3 our opposition.

4 The activities of the Theater Institute,
5 both domestic and international, are well known and
6 widely respected. A year ago we were invited to the
7 Swedish Consulate in New York City to accept a citation
8 on behalf of the New York State Theater Institute from
9 the Swedish Ambassador and bring him greetings on behalf
10 of New York State. NYSTI's exchange of artists from the
11 Swedish theater group brought a different culture to our
12 audience. Another example of NYSTI's work toward mutual
13 understanding.

14 Just this past year, the Children's Theater
15 Foundation of America honored the New York State Theater
16 Institute and its producer, our sister director Patricia
17 DeBenedetto Snyder, in New York City with its
18 prestigious Medallion awards, and subsequently elected
19 Dr. Snyder to its Board of Directors.

20 Under the Governor's proposed budget, an
21 Article 7 legislation, without notice from and without
22 consultation with the Office of the Budget with the New
23 York State Theater Institute Board or any of NYSTI's
24 administration, NYSTI's unquestionable success will be

1 destroyed by this budget proposal and its proposal for
2 next year.

3 All of NYSTI's substantial assets will be
4 abandoned and its personnel terminated. It's critical
5 at this time that I express NYSTI's opposition to the
6 Governor's executive budget which reduces NYSTI's
7 operating budget by one half, and it proposes that NYSTI
8 become self supporting with private grants and
9 donations.

10 To expect that a volunteer, unpaid Board of
11 Directors of seven people could raise \$1 and a half
12 million within two months, and \$3 million annually
13 thereafter to support the salaries of state employees,
14 and pay the expenses of the state agency, is absurd.

15 Can you imagine how much success those same
16 seven volunteers would have in raising enough money to
17 pay the costs and expenses of the Governor's office?

18 Furthermore, as you all know, NYSTI's
19 appropriation actually comes from the culture education
20 account and not the general fund. This account does not
21 include hard tax dollars, such as revenue from income
22 and sales taxes. Rather, it comes from a long
23 established small fee charged on transactions in city
24 and county clerk's office statewide.

1 You should be aware that there will be these
2 direct economic consequences for communities in the
3 Capital District and beyond if the Governor's budget is
4 allowed to stand. There will be termination of 33
5 full-time state employees from working families
6 represented by UUP, NYSUT. Over 100 part-time teachers,
7 artists and craftspeople will be terminated.

8 The city of Troy, the Capital District, and
9 surrounding upstate counties, as well as metropolitan
10 New York City will lose economic benefits from NYSTI
11 from direct purchase of goods and services estimated at
12 \$350,000 annually.

13 The annual NYSTI audience of 40,000 will no
14 longer patronize local establishments and businesses.
15 The spinoff benefits estimated at \$25 per capita or \$1
16 million. An exemplary public/private partnership
17 between NYSTI and the Sage Colleges will be lost.

18 Sage provides the Shock Theater auditorium
19 utilities and maintenance free of charge in exchange for
20 NYSTI staff instructional services to its students. The
21 Governor's failure to bring NYSTI representatives to the
22 table during budget development discussions last year
23 resulted in a wasteful exercise to prove the worthiness
24 of NYSTI's programs and the legislature's commitment.

1 And we appreciate your commitment to NYSTI.

2 The failure of the Governor to bring us to
3 the table culminated in the legislature's rejection of
4 his proposals last year. The Governor now is trying to
5 do it again. I will ask you that his budget with regard
6 to NYSTI and Article 7 bill Senate 6607 and Assembly
7 9707 be removed from further consideration.

8 I appreciate your time. It's now my
9 privilege to introduce Dr. Patricia DeBenedetto Snyder,
10 founder and producing artistic director of the New York
11 State Theater Institute.

12 DR. DEBENEDETTO SNYDER: Thank you, David.
13 Senator Kruger, Legislators, we as a company
14 are opposed to the Governor's budget proposal that
15 slashes the New York State Theater Institute's
16 appropriation by half, ultimately forcing the
17 termination of 33 dedicated state employees from upstate
18 working families, as well as 100 part-time teachers,
19 artists and craftspeople from throughout New York State.

20 The Governor's budget proposal will destroy
21 educational and cultural programs for 60,000 students in
22 New York State this year alone. We also oppose the
23 Article 7 bill.

24 The New York State Theater Institute, NYSTI

1 for short, is a program of the legislature. NYSTI was
2 created in 1974, and for 36 years NYSTI has been the
3 pioneer in employing the arts, especially the live
4 theater, as a force for alternative education across New
5 York State and beyond.

6 Although our presentations on the stage may
7 be the most visible result of our work, it is only the
8 tip of the iceberg. NYSTI is not just a quality
9 professional theater for students and family audiences.
10 NYSTI is a school.

11 NYSTI is a school for high school seniors
12 from public and private schools throughout New York
13 State. Our students are released from their home campus
14 to study at NYSTI six days a week for one or two
15 semesters. Most of our high school interns complete
16 their requirements for graduation at NYSTI.

17 NYSTI provides artful teaching methods that
18 engage the full range of students, from the literate to
19 the academically exceptional; from the shy and
20 introverted to the bold and outspoken; from the
21 disengaged to the highly motivated, each of them has a
22 place at NYSTI.

23 Since our inception, NYSTI has served no
24 fewer than 1,562 interns; certified more than 23,000

1 hours of academic credit. NYSTI provides educational
2 services to the teachers of the students who see our
3 productions each year. The NYSTI education team travels
4 to schools to prepare students for their often first
5 live theatrical experience.

6 Each teacher who brings their class to NYSTI
7 performances receives our widely replicated study guides
8 which provide direct curricular connections to the
9 actions on stage. NYSTI also provides workshops for
10 teachers and administrators, certified professional
11 development credit for each teacher who participates in
12 NYSTI's in service programs.

13 The Governor's budget proposal for the
14 Theater Institute is a further assault on funding for
15 education in our state. NYSTI is a unique and important
16 upstate source of alternative education for our most
17 talented, and in some instances, our most needy young
18 people.

19 We understand these are difficult economic
20 times in our state and nation, and NYSTI is prepared to
21 absorb a manageable reduction in funding, to do our
22 share in restoring New York State's fiscal health, but
23 we oppose the proposal to arbitrarily slash our budget
24 in half, and change the statute that has given NYSTI the

1 strength and support to maintain our education programs
2 for millions of young New Yorkers.

3 NYSTI's return on investment has been
4 consistently positive, delivering an affordable program
5 and education in cultural enrichment to family audiences
6 that has touched all 62 counties of New York State, and
7 a cumulative audience of eight million since 1974.

8 In the state that is home to Broadway in New
9 York City, the theater capital of the world; in the
10 state that created the first arts council before the
11 National Endowment for the Arts was established; in the
12 state that created the New York State Theater Institute
13 as the pioneer of arts and education in New York State,
14 our important work toward a more humane future must be
15 allowed to continue. We must be protected from an
16 arbitrary and draconian budget cut with serious economic
17 and human consequences.

18 We respectfully request that the legislature
19 restore funding to NYSTI, and to reject the Governor's
20 Article 7 bill that would change the legislature's
21 intent when it created the New York State Theater
22 Institute.

23 Thank you very much for your attention.

24 MR. MORRIS: At this time, it's my privilege

1 to introduce John Romeo, who is one of NYSTI's premiere
2 actors, and his performances I've been, indeed,
3 fortunate to witness over the years. Mr. Romeo is also
4 President of the NYSTI Chapter of UUP.

5 MR. ROMEO: Thank you.

6 I am John Romeo, teacher, actor and
7 hopefully a stage director with the New York State
8 Theater Institute for over 27 years. And I am President
9 of the Theater Institute United University Profession's
10 chapter. I represent the employees of NYSTI and the 25
11 members of UUP who have worked with NYSTI for over three
12 decades, and the many actors, teachers and technicians
13 needed on a temporary basis by NYSTI to fulfill its
14 mandate.

15 These hard working theater professionals
16 spent their tenure committed to the precept that the
17 arts are and must continue to be an integral part of the
18 educational process.

19 The Institute was created by legislation
20 that recognized value of the theatrical experience to
21 students of all ages. NYSTI's mandate has been to meld
22 the play with the curriculum being taught in the
23 classroom.

24 NYSTI has developed not only its award

1 winning theatrical program, but it is recognized
2 worldwide as an innovator of connecting the classroom to
3 the literature of the state. The professionals who
4 populate the staff of the Institute come from all over
5 the state, from varied backgrounds and experiences, all
6 dedicated to teaching the thousands of students who pass
7 through its doorways.

8 Most have given up the opportunity of the
9 brass ring that theater offers. They have given up the
10 chance to achieve the goal of working in the theater
11 capital of the world, New York City. They have chosen
12 to live and work in the Capital District, becoming
13 homeowners, starting and raising their families, and
14 establishing their careers in service to New York State.

15 The executive budget recently presented us
16 has once again thrown the Institute, and its dedicated
17 staff of teachers, onto the guillotine of streamlining
18 the state workforce. Once again, the staff must justify
19 to another state budget why it should exist and prove
20 its need for this resource to teachers and students.

21 Why must this continue to persist? It's
22 been said that when archeologist digs for traces of
23 ancient civilization the things that remain tell us how
24 civilized we were in the past. These are the arts, the

1 literature, plays, books and paintings are all that
2 remains. The measure of how advanced and civilized the
3 art is our art. Our schools have been stripped of their
4 art programs. School budgets find it easier to slice
5 out music, theater and art programs. The humanity and
6 perspective the arts gives students has been lost to the
7 desire to balance budgets and keep taxes low.

8 The New York State Theater Institute has
9 remained one constant amidst all the butchering of the
10 arts in local schools. New York State's commitment to
11 the NYSTI program has stood as a small but valued
12 resource for those students and teachers to keep the
13 arts in education.

14 Now, a short sighted budget plan has shown
15 that New York State is abandoning the Theater Institute
16 because of a difficult, but temporary, fiscal crisis.
17 This gem of New York State is being cast off because
18 somehow the budget can't see its value.

19 Do the budget's writers understand that the
20 theatrical industry center and heartbeat lies in New
21 York State and New York City? This industry provides
22 enormous financial assets to the city and state. The
23 tourism dollars alone that the theater industry brings
24 the state are a king's ransom. Taxes paid by theaters,

1 producers and workers of this industry aid this state
2 enormously.

3 NYSTI educational programs provide students
4 with exposure to the theater. NYSTI's intern program
5 brings high school and college students to the business
6 by allowing them to become intimately involved hands on
7 with the theatrical process; thereby passing on to
8 colleges, our state universities and the industry, new
9 recruits that are more highly trained, more innovative
10 and more productive members of the industry. How does
11 one put a value on that?

12 On a local level, NYSTI must hire additional
13 staff over its seasons. Actors, teachers and
14 technicians from the community are needed to fill out
15 the demands of various educational programs and
16 productions.

17 The money that is spent here goes back into
18 their communities, into the distressed economy of the
19 City of Troy, and into the coffers of New York State.
20 The school children who come to the Theater Institute
21 are hooked to Troy, giving exposure to a city
22 desperately trying to reestablish its once lively arts.

23 The interns who come to NYSTI provide
24 tuition and spend their dollars in Troy. The thousands

1 of public audience members who travel to NYSTI's Theater
2 spend their dollars in Troy's restaurants and struggling
3 antique district near the theater.

4 NYSTI's patronage of local suppliers of
5 lumber, steel, hardware and paint vendors needed to
6 construct its scenic elements provides value income to
7 local business communities. It's hard to see how
8 dismantling NYSTI could do anything other than erode the
9 positive economic influence it provides in the Capital
10 District.

11 Should this statute in the budget not be
12 restored, the employees of NYSTI will be out of work on
13 unemployment. There is little possibility of them
14 getting work in their profession in the area. There's
15 no other full-time professional theater company.

16 There's one freelance company who struggles
17 daily to pay its staff. The actors, teachers and
18 technicians who are hired by NYSTI outside of its
19 permanent staff will lose a major source of income and
20 may end up struggling, along with the NYSTI staff, to
21 not lose their homes and uproot their families.

22 The loss of jobs would add up to over 130 of
23 NYSTI's staff, additional teachers, actors and
24 technicians. This will only further erode the economic

1 foundation of our community.

2 The only sensible and responsible thing to
3 do is to keep NYSTI alive. The people of New York
4 State, the students and teachers, deserve and need this
5 resource.

6 Perhaps those historians looking back
7 through the history books one day will find evidence of
8 a state that decided that ultimate fighting was a
9 valuable asset to its people, but that NYSTI, a
10 remarkable and highly successful arts and entertainment
11 program, should be abandoned.

12 And in the far future when the archeologists
13 dig through the rubble of this state will they find no
14 evidence of our civility and humanity in this state's
15 dedication to education, but only the rotting cages of
16 gladiatorial sport that was used to make some quick
17 cash.

18 Is this how we want our great state to be
19 remembered? I ask the legislature to reject the
20 Governor's proposal and restore NYSTI's budget and
21 statute. Thank you very much.

22 CHAIRMAN FARRELL: Thank you.

23 SENATOR DEFRANCISCO: One question.

24 You said 50 percent cut. What does that

1 mean? How many dollars 50 percent cut?

2 MR. ROMEO: One and a half million this year
3 and then 3 million the next year will be gone and NYSTI
4 will be gone, unless I can go out and raise 3 million.

5 DR. DEBENEDETTO SNYDER: Currently, 93
6 percent of our current budget is for salaries and fringe
7 benefits. So, basically, 50 percent cut implies a
8 considerable number of people will be laid off this
9 year.

10 SENATOR KRUEGER: That was your government
11 budget. What is your total budget?

12 DR. DEBENEDETTO SNYDER: 3,066,000 and
13 included in that budget are fringes and indirect costs.

14 SENATOR KRUEGER: That's private money and
15 state money? What amount of your budget is private
16 money? What amount of your budget is raised outside of
17 the state contribution?

18 DR. DEBENEDETTO SNYDER: We raise
19 approximately one half million dollars a years because
20 we serve the schools, and when the Theater Institute was
21 created in 1974, at that time it was established that
22 the price of admission should be kept affordable so that
23 every child could afford to attend the theater and to
24 participate in our education programs.

1 And that goes for family audiences on the
2 weekends as well.

3 SENATOR KRUEGER: Thank you.
4 Assembly?

5 ASSEMBLYMAN ENGLEBRIGHT: This was a very
6 powerful presentation from each of you. I wish that the
7 Governor had looked at the response of the legislature
8 last year before he, once again, decided to create
9 problems for NYSTI in this budget. I can tell you this:
10 You have many who admire your work who are members of
11 the legislature, most particularly are the members of
12 the Capital District legislative group.

13 Just some advice to you: Go back to your
14 strength and talk to them again. I'm thinking of
15 members who heroically last year came to your aid,
16 Member Canestrari, Member McEneny. McEneny sits on my
17 committee and is the senior member on the committee,
18 very well regarded. Mr. Canestrari is our Majority
19 Leader, very well regarded.

20 They were there for you last year. I
21 believe that if you bring the words that you have
22 brought to this presentation today to them that you have
23 a good likelihood of having their support, which is so
24 important to the final outcome.

1 Thank you for your presentation.

2 SENATOR KRUEGER: Our last testifier is New
3 York State Community Development Financial Institution,
4 Hillary Lamishaw and Kim Jacobs.

5 Okay, I don't see the representatives, so
6 our next is Trevor Davis, also not here.

7 Broadway Stages was already here.

8 UnyTech, Richard Honen.

9 MR. HONEN: Thank you. I know it's late and
10 I know I'm last, so I will be quick. We were also
11 asked, I think, when we testified in front of the --
12 there might be one further person after us, but we were
13 also asked when we testified in front of the Governor's
14 Task Force on Higher Education Partnerships, which
15 resulted in a recommendation of many things, including
16 the seed fund.

17 So, we seem to always be last so we put our
18 very limited political clout behind this recommendation.
19 You've heard -- by the way, UnyTech is the upstate New
20 York Universities and Research Facilities. They include
21 SUNY and all the upstate colleges, some of the downstate
22 universities as well, and it is the group of tech
23 transfer professionals, the folks whose job it is to sit
24 on this \$4 and a half billion that we've heard about and

1 was federally sponsored annual R&D into our universities
2 and accumulates as kind of inventories their job to take
3 that inventory and turn it into jobs, jobs and companies
4 and money. And that is what they want the seed fund
5 for.

6 As I said, you heard the numbers, \$4 and a
7 half billion. They are asking for \$25 million to
8 leverage it. And so you are looking at about one half
9 of one percent of their annual expenditure. You've
10 heard the arguments for it. The one thing that -- the
11 one point we would like to make is calling it a seed --
12 it is a seed fund, but once you call it a seed fund it
13 seems to take on a meaning like it is a traditional fund
14 where you have to kind of have a repeatable return on
15 investment and you have to make investments that are
16 going to make money in the term.

17 And we would ask you to keep in mind, as I
18 think Marnie from University of Buffalo and some other
19 people said as well, that, yes, while it is equity, and
20 yes, Senator Krueger, we believe the state can own that
21 equity. That's a question you asked about eight hours
22 ago when we started.

23 You can't necessarily look at it like the
24 kind of equity we see in a venture capital fund. It's

1 very early stage. It's almost a better term for
2 research -- if we asked for \$25 million in research
3 money, it would go into that \$4 and a half billion pot
4 and nobody would think any more of it, but it's earlier
5 than SBTIF.

6 This is for the technologies that are right
7 off the bench at places, well, everywhere, like Cornell
8 and Binghamton and Clarkson and all those places that
9 are doing so well with it.

10 We would ask that you support the seed fund.
11 We would ask that you make it repeatable, year after
12 year, until it begins to pay for itself, which we think
13 it could do.

14 And the other thing that we ask is that you
15 leave enough room there so that the fund doesn't have to
16 have a traditional fund return on investment in year one
17 or year two, and you take into account the fact that the
18 fund is also going to create jobs, and that is something
19 that venture funds don't have to do and don't
20 particularly want to do. We would ask that you make the
21 job creation one of the benchmarks that the fund can
22 look to in order to be successful along with the equity
23 participation.

24 There was also one other thing that I

1 believe Chairman Mullen said when he envisioned the
2 fund, and I think he was talking about the Governor's
3 proposal. I know there's some Assembly proposals as
4 well. He envisioned the fund being managed on a
5 regional basis, and whether you call it region upstate
6 and downstate, or whether you get more specific than
7 that, just because of the different technologies,
8 whether it's bioinformatics in Buffalo, or ceramics in
9 Alfred, or semiconductors in Binghamton, or
10 nanotechnology in Albany, medical devices in Syracuse,
11 it's different throughout the state.

12 ASSEMBLYMAN ENGLEBRIGHT: Don't forget Long
13 Island. You got everything but Long Island.

14 MR. HONEN: I'm sorry. Biotech and science
15 on Long Island. I apologize.

16 But you see how local it is and how regions
17 that might be geographically large do have to be treated
18 somewhat differently, and we ask that you take that into
19 account.

20 Again, it's late. I don't imagine you have
21 any questions but I'm happy to answer.

22 SENATOR KRUEGER: I do have a question.
23 Thank you very much.

24 You are playing off of two previous

1 testifiers many hours ago. So we spent \$4 and a half
2 billion on R&D for our universities, what I keep
3 hearing, and then we are asking for \$25 million to try
4 to move this research out to the market.

5 Might we not be spending the \$4 and a half
6 billion as well as we could in order to get us further
7 along towards that match between pure university
8 research and the economic development marketplace we are
9 trying to compete with?

10 I don't know if I am asking the right
11 question, but perhaps my question is: Is it really just
12 having this \$25 million seed fund that will be the
13 difference that New York needs compared to all these
14 other states that seem to be ahead of us, or are we
15 perhaps not thinking through correctly how we are using
16 our \$4 and a half billion investment?

17 MR. HONEN: We, New York, are not
18 necessarily spending that \$4 and a half billion. That
19 is federal money. \$4 and a half billion is money that
20 is raised by the universities. You are saying somewhere
21 in that \$4 and a half billion can't we find one half of
22 one percent of it to allocate to commercialization
23 activities.

24 And the answer is that we have been trying

1 to do that for years, but remember how much of these
2 research dollars are so targeted. Research dollars,
3 whether you are doing sponsored research with GE or
4 somebody like that, or whether you are doing it with NIH
5 or something, that money is targeted. Half the time you
6 end up discovering something you didn't start looking
7 for in the first place.

8 The other problem is: The skill set of the
9 people who invent stuff is a lot different from the
10 skill set of the people who can turn that stuff into
11 businesses, which is very few people who can do that.

12 So, it's hard to -- with the way that that
13 \$4 and a half billion is marbled throughout different
14 grants, different agendas, it's hard to do it that way.

15 The other thing is that if you had it all
16 under one roof -- and I'll leave it to you to decide
17 what roof that is -- you would clearly be able to manage
18 those funds effectively and be able to concentrate just
19 on the commercialization process.

20 Because this is really early stage stuff.
21 This is where our scientists have done something like
22 the blackboard, we want to see she or he make two liters
23 of this. We want to say can they make two gallons of
24 it. I know those are two different things.

1 So, the answer is, yeah, you would think out
2 of \$4 and a half billion maybe you should be able to
3 find that money, and maybe you can, but no one is going
4 to be able to find it in the last literally 20 or so
5 years. This would make it a little more
6 institutionalized.

7 SENATOR KRUEGER: Thank you.

8 Any other questions? Thank you very much
9 for staying and testifying today.

10 I believe our last testifier is Hunger
11 Action Network? Not here. All right. So, I think we
12 are closing down the economic development hearing.

13 (Hearing concluded.)

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