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**JOINT BUDGET HEARING
OF THE
ASSEMBLY WAYS AND MEANS COMMITTEE
AND THE
SENATE FINANCE COMMITTEE
ON THE
TAXES BUDGET
FOR FISCAL YEAR 2013-14**

**Held in Hearing Room B
Legislative Office Building
Albany, NY 12248**

**February 12, 2013
9:38 a.m. - 11:30 a.m.**

JOINT BUDGET HEARING ON TAXES FEBRUARY 12, 2013

APPEARANCES:

ASSEMBLYMAN HERMAN D. FARRELL, JR., Chairman, New
York State Assembly Ways and Means Committee

SENATOR JOHN A. DEFRANCISCO, Chairman, New York State
Senate Finance Committee

ASSEMBLYMAN ROBERT C. OAKS, Ranking Minority Member,
New York State Assembly Ways and Means Committee

SENATOR LIZ KRUEGER, Ranking Minority Member, New York
State Senate Finance Committee

ASSEMBLYMAN KENNETH P. ZEBROWSKI

ASSEMBLYMAN RAYMOND W. WALTER

ASSEMBLYWOMAN NICOLE MALLIOTAKIS

ASSEMBLYWOMAN SANDRA R. GALEF

ASSEMBLYMAN ROBIN L. SCHIMMINGER

ASSEMBLYWOMAN EARLENE HOOPER

ASSEMBLYMAN WILLIAM COLTON

SENATOR MALCOM SMITH

SENATOR BRAD HOYLMAN

ALSO APPEARING:

THOMAS H. MATTOX, Commissioner, New York State Department
of Taxation and Finance

FRANK MAURO, Executive Director, Fiscal Policy Institute

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RON DEUTSCH, Executive Director, New Yorkers for Fiscal

Fairness

JOHN WHITELEY, Legislative Affairs Officer, New York State

Property Tax Reform Coalition

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CHAIRMAN JOHN A. DEFRANCISCO: We have another meeting this afternoon. I'm going pass it over to the emcee of this morning's events, the Honorable Denny Farrell.

CHAIRMAN HERMAN D. FARRELL, JR.: Good morning. Today we begin the tenth -- yes, the tenth -- in a series of hearings conducted by the joint fiscal committees of the Legislature regarding the Governor's proposed budget for fiscal year 2013-2014. The hearings are conducted pursuant to Article VII, Section 3 of the Constitution and Article II, Section 31 and 32(a) of the Legislative Law. Today the Assembly Ways and Means Committee and the Senate Finance Committee will hear testimony concerning the budget's proposal for taxes.

I will now introduce the members of the Assembly that are here. Mr. Oaks and I. And Senator DeFrancisco, Chair of the Senate Finance Committee, will introduce members of the Senate. Oh, and Mr. Zebrowski. I'm sorry. Come up here like the rest of the -- be up here with the group.

Senator.

CHAIRMAN DEFRANCISCO: For the Senate, I'm joined by the Vice Chair of the Finance Committee, Malcolm Smith, and the Ranking Member on the committee, Liz Krueger.

CHAIRMAN FARRELL: New York State Department of Taxation and Finance, Commissioner Thomas A. Mattox. Good morning.

COMMISSIONER MATTOX: Good morning,

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Chairman. Thank you. Chairman DeFrancisco, Chairman Farrell and distinguished members the committees, on behalf of Governor Cuomo and my colleagues at the Department of Taxation and Finance, thank you for the opportunity to discuss the Governor's 2013-14 Executive Budget.

The past two years presented us with tremendous challenges. When Governor Cuomo took office in January 2011, the 2013-14 fiscal year budget gap was forecast to be \$17.4 billion. In just three budgets, Governor Cuomo managed to erase that deficit without increasing taxes. Instead, we're remaking government and targeting our spending towards growth; a plan that has brought local property taxes under control and resulted in the lowest middle-class tax rates in more than 58 years.

The mission of the Tax Department is unique. We are responsible for the enforcement of the Tax Law, and we are an advocate for taxpayers. We must function to promote economic development while ensuring taxpayer equity. This requires a balanced approach. We strive to collect the right amount of tax from taxpayers and eliminate unproductive audits, and we aim to increase our accessibility and, ultimately, taxpayer compliance by simplifying our filing forms and taxpayer guidance. This year's budget strikes a similar balance, combining revenue-generating initiatives, targeting delinquent tax liabilities that have been historically difficult to collect, with administrative initiatives to increase efficiency and make the Tax Law easier to understand. The budget also supports tax incentives

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targeting proven growth areas poised for rapid development and job creation.

To begin, the Executive budget contains a proposal to protect the credit histories and financial futures of taxpayers with unpaid fixed and final liabilities. Currently, the Department must issue a public tax warrant before undertaking certain collection activities. These warrants can compromise a taxpayer's credit report, which can have lasting implications on a taxpayer's ability to secure housing or employment and can drive up costs for vital services such as insurance coverage. The Executive Budget eliminates the need to file a warrant before seeking income executions. Our objective is to collect a tax debt, nothing more. This sensible approach preserves existing due process and taxpayer rights and strikes the needlessly punitive elements of the current framework.

Second, the budget proposes to suspend the New York State driver's licenses of taxpayers who owe fixed and final past-due liabilities. The proposal authorizes the Department to coordinate with the Department of Motor Vehicles to suspend the licenses of drivers with tax debt in excess of \$10,000. Taxpayers subject to the suspension will be notified at least 45 days in advance that they will have their licenses suspended if they fail to settle their tax debt. Drivers would be granted restricted licenses in order to get to work and school, and any taxpayers possessing a commercial driver's license, less than 150 of the estimated 9,000 taxpayers affected by this proposal, would not be subject to suspension. To

avoid suspension or to have a suspension lifted, the taxpayer would need to pay the debt in full or make acceptable payment arrangements with the Department.

Third, the budget looks to close current loopholes that enable businesses with unpaid tax liabilities and their owners to avoid paying off their taxes. The proposal would modernize provisions relating to the granting of sales tax certificates of authority, commonly referred to as C of As, without which retail businesses cannot legally conduct business. Specifically, it would allow the Department to revoke a sales tax C of A for any unpaid tax liability, identical to the existing authority for denying a C of A. Provisions in the Executive Budget would also allow the Department to implement an annual liability clearance process to encourage cigarette and tobacco retailers to remain current with their tax liabilities. The proposal makes the grounds for refusal of the annual certificate of registration, which is required to sell cigarettes and tobacco, consistent with the grounds for refusing to issue a sales tax C of A. As a result, it would allow the Department to refuse to issue a certificate of registration, as it does for a sales tax C of A, if any outstanding taxes are due from the applicant or if the applicant has been convicted of a crime under the Tax Law.

Lastly, the budget implements a reregistration initiative for the basic STAR property tax exemption which will eliminate waste, fraud and abuse in the program. To accomplish these targeted initiatives, the budget recommends an increase of 204 FTEs

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from the 2012-13 budget. These provisions would generate \$120 million annually in additional revenue.

Governor Cuomo believes, above all, that government must be functional for its citizens. The budget supports this principle and the Department endeavors, in multiple ways, to increase our accessibility and effectiveness. By augmenting our audit and collection activities, we are able to better target audits to those who owe tax and strengthen taxpayer compliance which, in the end, helps taxpayers avoid unnecessary procedural, financial and legal challenges. We have expanded and enhanced our business analytics capabilities to help us better identify fraud and increase associated revenue collections. This is a key component to ensuring taxpayer equity.

We have also made it a priority to leverage technology to provide more services to taxpayers and improve the efficiency of our operations. In September we launched our new sales tax web filing platform which uses state-of-the-art web technology to provide a one-stop seamless online experience for sales tax filers. More than 200,000 New York businesses use the new system to perform most of their sales tax filing and reporting tasks online. The customer-focused fully electronic system was developed based on requests and input from thousands of New York business users. The enhancements help businesses comply with the law and remit the appropriate sales tax. Among the user-requested enhancements, businesses can now securely schedule payments in advance and store

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bank information for future returns. Since the launch of the new system, e-filing has increased to 83 percent in the most recently-completed quarterly filing. Our combined efforts to encourage more e-filing have enabled New York taxpayers to avoid more than \$70 million in processing costs last year alone.

We have simplified taxpayer guidance and implemented a clear language initiative that puts tax documents into understandable terms. In addition, we have embraced Governor Cuomo's language access policy as articulated in Executive Order 26, translating vital documents into six different languages and providing on-demand interpretation services to ensure that persons with limited English proficiency have meaningful access to agency services, programs and activities. We also play an integral role in the redesign and right sizing of government. Once fully implemented, the Department will house the consolidated call center operations of eight agencies and will assume the print operations of three other agencies. These initiatives improve customer satisfaction and drive taxpayer savings.

Finally, the Department processes the job-creating tax credits used by our sister agencies to attract business to and promote economic development within New York State. Incentives targeting the film and television, construction and alternative energy industries will combine to enhance the appeal of New York State as a place of creative energy and innovation. The Department ensures the accurate and efficient distribution of these benefits, developing clear guidance

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and advisory opinions to simplify the process for taxpayers. The Governor's budget is our blueprint for reform. It forges pathways to improve services and government efficiency.

On behalf of the Department, we look forward to developing new and innovative ways to enhance our mission while achieving cost savings that meaningfully contribute to forming a more efficient government for New Yorkers. I look forward to working with you to pass yet another on-time budget, and I welcome any questions that you might have.

CHAIRMAN FARRELL: Thank you very much.
Questions? Yes?

CHAIRMAN DEFRANCISCO: Go ahead.

ASSEMBLYMAN RAYMOND WALTER: Thank you. Thank you, Commissioner. Just a question about the proposal in the government -- in the Governor's budget about IDA reform. According to the Governor's proposal, it looks like for these draconian changes to the way that the IDAs would issue sales tax abatements, it's only going to generate about \$7 million in additional revenue. Is that your understanding? And it's also my understanding that the Governor has indicated he's willing to make some adjustments to this proposal.

COMMISSIONER MATTOX: Well, the proposal is one that is within the providence of the Executive and Legislative branches. As you know, our mission is tax administration, so the call as to whether it's appropriate to change tax exemption benefits for

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IDAs is not ours.

ASSEMBLYMAN WALTER: But it's proposed to only generate about \$7 million; is that correct? That's accurate?

COMMISSIONER MATTOX: In terms of order of magnitude, my understanding is that we are talking about a potential savings of millions of dollars but, again, as I said earlier, we did not develop the proposal, so the revenue figures are certainly -- are certainly subject to change depending on the final structure of the exemptions.

ASSEMBLYMAN WALTER: Okay. Thank you very much.

CHAIRMAN FARRELL: Senator.

CHAIRMAN DEFRANCISCO: Senator Krueger.

SENATOR LIZ KRUEGER: Good morning, Commissioner.

COMMISSIONER MATTOX: Good morning.

SENATOR KRUEGER: Thank you for your testimony. Back in 2009-10 and 2010-11 we authorized, I believe it was -- 2009-10 we authorized Tax and Finance to hire an additional 325 staff for audit, collection and enforcement activities, and then in '10-11, we authorized an additional 100 staff to be hired for enforcement and collection, and this year's budget proposes hiring an additional 200 auditors. So, have we, in fact, grown already by 425 in the last few years, prior to adding 200 this year? And what kind of money are we making because of it?

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COMMISSIONER MATTOX: Well, Senator, the -- just a point of clarification. The 204 FTEs that are requested in the budget, 110 of those are auditors, 90 are collections professionals. Even if you were to approve that request, we would still be about 140 FTEs below our staffing level from three years ago. So, we've experienced significant attrition over the past several years. We lost a number of our experienced auditors to the early retirement incentives. So, the approval of incremental, more additional head count has to be netted against the attrition that we're experiencing across the board within the Department.

SENATOR KRUEGER: Although attrition is people retire or leave, it doesn't decrease the number of head count slots you have to fill, right?

COMMISSIONER MATTOX: Well, we have experienced a, literally, a physical reduction in the number of people within the Department. If you look historically, in fact, back to '99 and 2000, we were about 15 percent or so higher than we are today in terms of our overall head count. So, the historical trend over the past several years within the Department has been a net decline.

SENATOR KRUEGER: And are we meeting our revenue collection targets for sales, personal income tax and business taxes?

COMMISSIONER MATTOX: Yes. We have been meeting the revenue targets.

SENATOR KRUEGER: Okay.

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CHAIRMAN FARRELL: Including the tobacco?

COMMISSIONER MATTOX: The targets are a function of forecasts that are developed by DOB. In some cases we will experience actual receipts that are below the forecasted levels. That is true for cigarettes at the moment, but we, basically, run the operation to try to hit the targets as budgeted.

CHAIRMAN FARRELL: I'm sorry.

SENATOR KRUEGER: Denny just used one of my minutes, so I'm taking it back. Take it off of your time.

The Federal Dodd-Frank Act is changing requirements in the financial industry across the board with executive compensation rules, derivatives rules, hedge fund rules, the Volcker Rule on banking regulation. What impact do you see it having on the way businesses in New York State conduct themselves, track their corporate activity and pay their taxes?

COMMISSIONER MATTOX: Well, prior -- even prior to the passage of Dodd-Frank, I think it would be fair to say that the New York State tax code is complex. And for some of our larger, more sophisticated businesses, this is clearly a challenge. It's one of the reasons why we're so focused on developing clear guidance, leveraging AOs at the request of taxpayers whenever we can to try to clarify what is a very complex set of requirements on businesses. One of the things that we also try to do is work closely through various practitioner groups and taxpayer advisory councils to try to look for opportunities to simplify compliance whenever possible. But it is a

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challenge, there's no question about that. But that would have been true prior to Dodd-Frank, so I would not single out Dodd-Frank as materially changing the complexity associated with complying with New York State Tax Law.

SENATOR KRUEGER: Back in, I think it's '09-10, the State was exploring some sort of modernization and streamlining of business and corporate and banking taxes that you had participated in an effort with the City of New York for them to do so, and then I thought we were -- and the State is on the heels of that. So, it's '13-14. Where are we with that proposal or package?

COMMISSIONER MATTOX: We're still working on that. I suspect that that will be one of the topics that the Tax Commission will take up. The Commission on Tax Reform and Fairness that the Governor announced in the press release also included a reference to the fact that personal income tax, corporate tax would be -- would likely be subject to review by the Commission.

SENATOR KRUEGER: Okay. I have four minutes, so I suspect any number of my questions I'm going to ask you to get back to me afterwards, but...

COMMISSIONER MATTOX: We would be delighted to.

SENATOR KRUEGER: Thank you. Tax expenditure reform. So, I'm actually one of the people that reads that book you put out every year on tax expenditures.

COMMISSIONER MATTOX: Well, thank you for

doing that.

SENATOR KRUEGER: Thank you for putting it out. It's actually very important that we do. But I admit I don't understand at all what criteria you use for determining whether a tax expenditure has been evaluated as efficient or rational or cost-effective, how you evaluate. You know, you have all these little code numbers next to the columns and I try to read, you know, the citations. How are we actually evaluating, other than showing over five-year trends, them growing or not growing? How are we actually evaluating whether these make at all good sense from the perspective of revenue collection and positive public policy for economic activity?

COMMISSIONER MATTOX: Would you like me to answer now or do you want that on the follow-up list, Senator?

SENATOR KRUEGER: I suspect that's longer than the time you have, so if you wouldn't mind just -- I really would love to get into the weeds on that issue.

COMMISSIONER MATTOX: Very good.

SENATOR KRUEGER: So, the Governor -- so, we finally sunsetted Empire Zones and, for the record, I was delighted. But now the Governor's proposing a Hot Spots program. When I read it, it looks like a new Empire Zone program. So, can you tell me, A, how this is actually different and, B, why we should go down this road again?

COMMISSIONER MATTOX: Okay.

SENATOR KRUEGER: You can tell me whether

you need to follow up afterwards or not, but again, you know, we knew why Empire Zones weren't working and all the problems there. We knew how much it was costing the State and now we're going to have ten of these Hot Spots with, I guess, each economic council having the power to decide who, what, where, when, why, and I'm really interested in how this is different and why this is a better idea, if it is, because I'm not sure it is.

Then you mentioned this new platform for, I guess, tracking and collecting sales tax and that you're seeing a significant increase in e-filers just from having put it up and that it's saving the people who have to file their sales tax money, so that's all a win. But I've discussed for several years with the agency a model that's used in Canada and Europe where, you know, you have a black-box type of device that can actually track whether people are committing sales tax fraud, i.e., not actually declaring all their sales tax to the State of New York. Does this new platform that you were describing in your testimony incorporate some of this fail-safe sort of, you know, I guess, at-point-of-sale audit? Does it do any of that?

COMMISSIONER MATTOX: The platform I referenced in the testimony is designed for the reporting requirements of all sales tax types across all businesses that have C of As. So, it is broader than the initiative that you're referencing in Canada and that we've spoken about related to providing support for businesses, typically smaller businesses, in terms of helping them create the appropriate accounting infrastructure so that they can track sales and

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their transactions, record the appropriate amount of sales tax collected and then, ultimately, remit that. So, that really is a subset of the total program, but we can certainly come back to you with respect to point-of-sale platforms, which we have discussed with ESD, as well as some of the trends that are emerging now in terms of online software applications that, unfortunately, are being used to compromise the accuracy of transactions in point-of-sale systems.

SENATOR KRUEGER: And also, again, I'm claiming my extra minute as I watch the clock. In previous discussions about how to best track and catch people who fail to pay their sales tax because, of course, then all the businesses who are following the law are penalized by those who don't, the Department explained that because of some kind of access to bank records that it didn't -- through the IRS that it didn't have previously, you were going to be able to internally crosscheck and audit more effectively for yourselves on bad actors in sales tax. Have you implemented that model?

COMMISSIONER MATTOX: Yes. We were fortunate to receive a number of new tools. And, as a general rule, whenever you have the ability to independently verify a number, you see a dramatic uptick in the accuracy of the reporting of that number. So, W-2 wages, for example, is a good one to use to give you a frame of reference. We do now have access to third-party data from credit card issuers and processors. So, we can use that to match the reporting, the self-reporting that's done by businesses. So, that's an

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important new tool. This is the first full year that that's been implemented, so it's a little early to kind of give you a sense of the difference that it has made, but we have no doubt that it will help us in terms of identifying businesses and other taxpayers that may not have reported accurately.

SENATOR KRUEGER: And in your testimony you referenced a recertification system for STAR property tax?

COMMISSIONER MATTOX: Yes.

SENATOR KRUEGER: And that's because we're finding errors/people who are receiving STAR that are not eligible for it?

COMMISSIONER MATTOX: Well, it's part of a continued focus on ensuring that the program operates as efficiently as possible. I mean, as you know, if you think back to its implementation in '98-99 or so, as a \$500 million program and you fast-forward to today with over \$3 million exemptions granted --

SENATOR KRUEGER: Billion, right?

COMMISSIONER MATTOX: -- and over \$3 billion dollars of benefits distributed, it's clearly a program that deserves our attention in any -- in ways that are similar to what we do across the board in terms of filing. As you also know, our role was more formalized in that process with the income threshold requirement. So, that's the reason why the Department is now actively involved. And the fact of the matter is that assessors face quite a challenge here.

There are currently no toolsets in place that allow assessors to

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communicate with each other in terms of exemptions that have been granted. So, we're hoping to lend a hand in that process and that's the purpose of the proposed legislation.

SENATOR KRUEGER: Thank you. Thank you for allowing me some extra time.

CHAIRMAN FARRELL: Thank you. Assemblyman Oaks.

ASSEMBLYMAN ROBERT OAKS: Thank you, Commissioner. Also, I would like to thank Assemblyman Walter for his comments. He wasn't announced before he -- before he spoke, so...

Commissioner, a few things that you talked about, actually in your remarks. The issue of being able to suspend the driver's licenses for when you have now a tax liability over \$10,000 with the State. One of the things that's been raised is -- a concern with that is that under the present motor vehicle records system, suspensions are not identified for what they're for. And so, an insurance company who receives a suspension notice now, in assessing how they deal with a customer in the future, don't know if that's for motor vehicle infractions that may be causing, you know, rate impact and whatever with them versus a financial issue. And so, I just raise that with you or wonder if that's been addressed at all or ask you to take a look at that.

COMMISSIONER MATTOX: Okay. Well, I can certainly look into this. I was under the impression that DMV records

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did, in fact, indicate if points, for example, had been charged, whether that's a moving violation or what the nature of the violation was, but we can certainly follow up with DMV on that point.

ASSEMBLYMAN OAKS: Clearly, I think for the infractions that create points, the issue of suspension, I think, it doesn't say, but I know that's been raised by some of the insurance people, so I raise that.

COMMISSIONER MATTOX: I'll look at that.

ASSEMBLYMAN OAKS: One of the things that's in the Governor's budget is the creation of the New York -- or Taste New York facilities and some tax exemptions. With that, I think, it's an interesting proposal, but I know some people have raised the issue of constitutionality. Can we do this some places and not others? That's something that you're comfortable with that we could move forward?

COMMISSIONER MATTOX: I am.

ASSEMBLYMAN OAKS: You also talked about the certificates of authority, and the Governor's budget includes the proposal to refuse and revoke a sales tax certificate to any delinquent taxes now, not just unpaid taxes. But the budget also includes a second proposal to issue a certificate of registration for cigarette and tobacco retailers in the same manner it currently refuses to issue a sales tax certificate of authority. So, is there a reasoning on doing those differently, or why don't we -- or -- you know, there seems to be an inconsistency between the two.

COMMISSIONER MATTOX: Well, I must admit,

we viewed it as creating greater consistency across the two. The broader point with respect to the C of As, and it's certainly my own view, is that the ability to do business in the State of New York with a C of A or a C of R, if we're talking about cigarettes or tobacco products, should be viewed as a privilege, not a right. And therefore, being in compliance with all State laws, being current in terms of your liabilities with the State, strikes me as a reasonable objective. The second point is that we currently have the authority to deny a C of A or a C of R if there, in fact, are issues with the applicant. So, the proposals are really designed to close the loop, so to speak, which is to give us the authority to also revoke them when there are unpaid liabilities. So, we view it as actually bringing greater consistency to the administration of those privileges.

ASSEMBLYMAN OAKS: With the proposals in last year's budget and this year's budget to expand the ability to revoke or refuse the C of As, do you think -- you know, I think tax compliance is, you know, great and whatever. Do you think it's good that the Department has the extra authority but, secondly, do you think if used in certain manners, does that put us then in the position of businesses then feeling like, you know, New York is not open for business or not business friendly?

COMMISSIONER MATTOX: Well, I -- and I would be interested in your views on this and whether -- what you're hearing from your constituents, but we try very hard to work with taxpayers who have outstanding liabilities. We have a number of payment

programs. When I reference compliance, compliance does not necessarily mean you're paid in full. Compliance means that you have engaged with us and that we've worked with you to develop a plan that makes sense and allows you to repay that liability as best you can. It's clearly not in our interest to shut down businesses. They're a source of revenue going forward. In fact, we want to see every business succeed spectacularly so that they can generate revenues for the State. But in situations where folks run into difficulties, what we ask is that they engage with us, which is really the first step, and then secondly, that they accept their responsibility to begin a process in terms of repaying that liability. So, we think there are protections in place now and also, I would note, as I had indicated in the testimony, we're talking about liabilities that, to use our terminology, are "fixed and final," which means the process of appealing those assessments, whether it's through our Bureau of Conciliation and Mediation Services or through the Tribunal, that all of those options have been exhausted. And taxpayers often do not engage in the process and simply, unfortunately, ignore the assessment. So, I think there is an opportunity to develop greater compliance and to work with folks to make meeting that obligation reasonable.

ASSEMBLYMAN OAKS: I appreciate that and I appreciate the invitation to share some of that, which I will do. The other thing of sharing, I know that Senator Krueger asked you a number of questions to provide some of her responses, either you or her, I would appreciate hearing at least to some of those questions --

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those answers as well that we didn't have time to cover today.

Last year some call center operations from the Department of Financial Services were merged with yours. Was that successful, and do you foresee any issues with the proposed consolidation of other agency call centers working?

COMMISSIONER MATTOX: Well, I probably should be somewhat reluctant to fill out the customer survey form for DFS, but I'll do so. I believe they're happy with the services that we provide for them. They were the first major agency that we began to serve as part of the consolidation process. That occurred last year, and we're well on our way with the other seven agencies that will, ultimately, come into the Department and our call center operations.

ASSEMBLYMAN OAKS: Just --

COMMISSIONER MATTOX: So far, so good.

ASSEMBLYMAN OAKS: Good. Thank you. The last question, you had brought up the Tax Reform and Fairness Commission that you're a member of. Have any guidelines been established yet or has that met yet to begin to do that work or we're still...

COMMISSIONER MATTOX: It's very early days. There has only been one meeting at this stage. I think it would be fair to say, on behalf of the co-chairs, that the Commission is still getting organized, but we are underway.

ASSEMBLYMAN OAKS: I would just encourage you, I know there isn't legislative representation on that, so I'll make a

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little pitch to you. There is a -- an Assembly bill, 4575, that Mr. Kolb has -- the Minority Leader and myself have put in which would extend -- I know right now the tax reform that was done, the middle-class tax cut would sunset in 2015 --

COMMISSIONER MATTOX: Correct.

ASSEMBLYMAN OAKS: -- that would make it --

COMMISSIONER MATTOX: Permanent.

ASSEMBLYMAN OAKS: -- permanent, so I just request that you take a look at that. Thank you for your comments. And I'll also say and welcome Assemblywoman Malliotakis.

CHAIRMAN FARRELL: Yes. And we also have with us Assemblywoman Sandra Galef and Assemblyman Schimminger. Senator.

CHAIRMAN DEFRANCISCO: Yes. Thank you. First of all, I would like a copy of the answers to the questions --

COMMISSIONER MATTOX: Of course.

CHAIRMAN DEFRANCISCO: -- of Senator Krueger. They were very excellent questions, I might add.

SENATOR KRUEGER: Now we have to worry.

CHAIRMAN DEFRANCISCO: In last year's budget and again in this year's budget, there's a request for \$250,000 for the Open for Business Tax Office. Is that open and running right now?

COMMISSIONER MATTOX: I'm sorry, Senator?

CHAIRMAN DEFRANCISCO: The Open for Business Tax Office.

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COMMISSIONER MATTOX: Yes.

CHAIRMAN DEFRANCISCO: Is that open and running right now?

COMMISSIONER MATTOX: We have identified a professional to serve in the role of ombudsman. We've been working with ESD to put together a job description and to formalize the role. So, we are underway, yes.

CHAIRMAN DEFRANCISCO: But it's not up and running -- that was the question -- at this point?

COMMISSIONER MATTOX: Well, we consider it up and running in the sense that the individual has been identified. We have worked with ESD to define what the role would be and what we plan to accomplish. So I'm not quite sure what your definition of "up and running" is.

CHAIRMAN DEFRANCISCO: Well, up and running is when they're actually doing the work that they intended to do. The fact that they're still organizing, to me, that's a little different than up and running.

COMMISSIONER MATTOX: Well, the individual that we have identified has, in fact, been involved in supporting businesses. We have an outreach effort within the Department currently, and have had one for years, where we cover the entire State in terms of reaching out to small businesses, meeting with practitioners, community groups, to explain aspects of the tax code, to work with them in terms of organizing volunteers. So, important

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elements of the objective of setting up the ombudsman have, in fact, been underway for a while within the Department, just not formally structured in quite the way as proposed.

CHAIRMAN DEFRANCISCO: All right. And what will be done differently once the ombudsman is in office?

COMMISSIONER MATTOX: The way we envision the role, it would be embedded. So, it would be a tax expert embedded within ESD so that businesses, as they're working with ESD, can get a very early read on some of the issues that might affect their eligibility, help advise them with respect to the appropriate corporate structures that are necessary to be eligible, et cetera.

CHAIRMAN DEFRANCISCO: Okay. So that's a direct call a business can make to an identified individual or office to get some pre advice on how this -- whatever they're doing can be -- the tax rate would be affected, fair enough?

COMMISSIONER MATTOX: Yes.

CHAIRMAN DEFRANCISCO: Okay. There's been a movement as far as tobacco for Native Americans to actually manufacture their own tobacco under their own brand. Has that in any -- can you tell whether or not that has reduced or affected substantially the taxes that are collected?

COMMISSIONER MATTOX: Well, Native-brand cigarettes have been an issue for a while, so there was just more focus on them following the lifting of the TRO and the dramatic increase in prices for premium-brand cigarettes, particularly when they were fully

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taxed. So, Native-brand cigarettes, we believe, are a popular alternative largely because they are significantly cheaper, particularly if they're sold untaxed, and our view is that all cigarettes are subject to taxation if sold in the State of New York.

CHAIRMAN DEFRANCISCO: Okay. But the question, I think, was very clearly has it affected the tax collections up to this point in time? Have you noticed a difference since there's more nations going to their own brand?

COMMISSIONER MATTOX: Well, there has been a difference. We are down slightly in terms of tax-related collections, but it would be very difficult for me to confirm to you that it's solely due to increased consumption of Native brands. DOH, for example, has indicated that there is a drop in smoking. You see that trend nationally, as has been reported by the media. So it's hard to tease out the specific cause, but we are looking into that.

CHAIRMAN DEFRANCISCO: All right. And as you just mentioned, the fact that the Native Americans manufacture the cigarettes doesn't mean that those cigarettes are not taxable to non-Native-American purchasers, correct?

COMMISSIONER MATTOX: That's correct.

CHAIRMAN DEFRANCISCO: Are there any efforts being done right now by the Department to ensure that non-Native-American sales of these Native American cigarettes are being taxed?

COMMISSIONER MATTOX: Yes.

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CHAIRMAN DEFRANCISCO: And can you explain what's being done?

COMMISSIONER MATTOX: Well, on the enforcement side, we continue to work very closely with the State Police. As you know, there have been a number of seizures of untaxed product across the State. So, our enforcement efforts remain focused on ensuring that if cigarettes are sold in the State of New York, they have the appropriate tax stamp and the appropriate taxes have been paid. So, that's an ongoing effort.

CHAIRMAN DEFRANCISCO: So, right now, Native Americans who are manufacturing cigarettes are supposed to have a tax stamp on their brands?

COMMISSIONER MATTOX: That's correct. That's correct. If it's sold outside of the reservation, if it's in the stream of commerce where you would see premium-brand cigarettes, it is our view that those products are subject to taxation.

CHAIRMAN DEFRANCISCO: Okay. A couple more questions. Now in the State of New York, I believe, there's been a reduction in the amount of a charitable deduction that could be deducted from your taxes for people making a substantial amount of money. It went from 50 percent, now it's going to go down to 25 percent of the actual charity. Can you tell whether or not that's affected the extent of charitable contributions?

COMMISSIONER MATTOX: No, I cannot give that to you now, Senator. I would have to come back to you.

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CHAIRMAN DEFRANCISCO: Okay. If you can. If not, I'm just curious whether there's a direct relationship. And a couple more questions. You mention that this -- the legislation this year in the budget, the Department would be able to revoke a sales tax COA for any unpaid tax liability.

COMMISSIONER MATTOX: Yes, sir.

CHAIRMAN DEFRANCISCO: Now, under what circumstances would you be able to revoke it? Now, there's many times where sales tax issues are contested by the taxpayer. Is it -- do you envision that the provision in the budget would allow you to revoke that COA even when there's a dispute between the Department and the business?

COMMISSIONER MATTOX: No.

CHAIRMAN DEFRANCISCO: Okay. Under what circumstances would it be triggered?

COMMISSIONER MATTOX: Well, I'm sorry I wasn't clearer about that in the testimony. The revocation would apply to fixed and final liabilities.

CHAIRMAN DEFRANCISCO: Okay.

COMMISSIONER MATTOX: So, by definition, that means that appeal rights would have been exhausted and all other channels available to the taxpayer, regardless of whether they engaged in them, would have run its course.

CHAIRMAN DEFRANCISCO: Okay. Good. And lastly, with respect to that, when you're collect -- I know you got new

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tools as far as making sure the sales taxes are all being reported properly, the amount of sales tax due. How -- what statistical analysis do you use to determine whether these taxes that are being unpaid are due and owing? You know, what parameters do you look at to show that someone is defrauding the government?

COMMISSIONER MATTOX: Well, the first step is -- as you know, our system of taxation relies on voluntary compliance. So, the vast majority of sales tax due is paid voluntarily by taxpayers who do a very good job of understanding their obligations and executing on them. In situations where we've conducted an audit and reviewed the transactions of a particular business, the single-most important issue that we find upon review of that business is that books and records haven't been appropriately maintained. Unfortunately, in many instances, we find that books and records don't exist at all in terms of having tracked the transactions, so that when we go in and we ask the taxpayer to show us a summary of their business in terms of sales that they've made, et cetera, there's no documentation available to confirm the level of activity. That's when we will use what's commonly referred to as "indices," by industry, by business type, by regional location to, in effect, try to create a model of what the sales should have been based on sales of similarly-situated businesses within the same economic context. But that only happens when we've spent quite a bit of time working with the taxpayer to try to create those books and records, and that's one of the reasons why, in working with ESD, we believe it's very important that we think harder about

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ways in which we can support businesses, particularly new businesses who are just getting up and running, and ensuring that they're allocating the appropriate resources to create that accounting infrastructure for their own purposes as well, whether it's paying their employees, demonstrating eligibility for other benefits. There are all sorts of reasons why you would want to maintain a good accounting infrastructure separate and apart from your obligation under New York State law.

CHAIRMAN DEFRANCISCO: Okay. My time's up, but I would ask you, just generally, if you have any ideas on how we can simplify the tax code in the State of New York -- and I hope the Federal government's doing the same thing -- I would love to hear them on or off the record. I don't -- I'm not taking any particular position as to what we should be taxing, what we shouldn't, but a simpler system that will help you, number one, enforce the law and taxpayers actually comply. Thank you very much.

COMMISSIONER MATTOX: Thank you, Senator.

CHAIRMAN FARRELL: Thank you. Sandra Galef, Assemblywoman Sandra Galef. Questions.

ASSEMBLYWOMAN SANDRA GALEF: Thank you, Commissioner, very much. I just would like to go into the STAR a little bit.

COMMISSIONER MATTOX: Sure.

ASSEMBLYWOMAN GALEF: And I don't know whether I missed something, I apologize. I was between committee

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meetings. If you could just kind of go over it with me. You have the capability of doing the ten-year look back with the local assessors, I'm assuming, because you're going to go back ten years to find out if anybody has done something wrong with their STAR exemption?

COMMISSIONER MATTOX: Part of the proposal includes a look back.

ASSEMBLYWOMAN GALEF: And a look back. And you have the ability to do that? I know it comes from so many different places like the assessor, tax office. You do have that capability?

COMMISSIONER MATTOX: We can work with assessors now. The property tax records are really the province of the local assessors.

MS. GALEF: Right.

COMMISSIONER MATTOX: As you know.

ASSEMBLYWOMAN GALEF: Right. So, what would the timing of it be? Some communities are starting out, you know, with their school budgets probably in June, some of the cities. So, what is your timing on this program?

COMMISSIONER MATTOX: Well, if the proposal is approved, we would expect to be up and running within a year.

ASSEMBLYWOMAN GALEF: Okay. So that there is a little bit of time in all of that . And notification? I mean, I think this is -- it took a long time to get everybody in the program and to understand there was a basic STAR program for people, all people.

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COMMISSIONER MATTOX: Sure.

ASSEMBLYWOMAN GALEF: And are you going to do lots of notification to people directly to make sure that they, you know, get back on the roles so we don't have very angry people, that we've left them off?

COMMISSIONER MATTOX: Well, we're even envisioning the possibility of placing phone calls to follow up on written communications.

ASSEMBLYWOMAN GALEF: Right.

COMMISSIONER MATTOX: So, we understand the importance of ensuring that, particularly if there's any denial, that there are plenty of opportunities to get to that property owner and ensure that they understand what needs to be done.

ASSEMBLYWOMAN GALEF: Okay. And I guess this also applies to anybody that owes money, it would apply to their driver's license. This would be another part of owing money and there would be an appeals process for somebody who may have had two properties?

COMMISSIONER MATTOX: Well, across the board, when we issue an assessment, our judgments are subject to appeal by the taxpayer. And typically, that is done through our Bureau of Conciliation and Mediation Services. They can also appeal to the Tribunal. We work with taxpayers in terms of putting together payment programs if the issue really is -- has less to do with the liability itself, but actually the repayment of it. So, we've worked hard

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to try to make it reasonable to have people meet their obligations.

And we were talking earlier about the fact that, at least in our view, whether it's a license or eligibility for a rebate, those are really privileges, not rights, in the State of New York. And, therefore, your account with the State should be in good order.

ASSEMBLYWOMAN GALEF: Right. I agree. I agree. When you had this whole discussion about relooking at how STAR is done, did the circuit breaker concept ever come into discussion, going off in a different direction to help taxpayers or was that not a part of the thinking?

COMMISSIONER MATTOX: I don't know if that was part of the conversation when the proposal was drafted.

ASSEMBLYWOMAN GALEF: Okay. Thank you.

CHAIRMAN FARRELL: Thank you. Senator.

CHAIRMAN DEFRANCISCO: We're joined by Senator Hoylman, who has a question.

COMMISSIONER MATTOX: Good morning.

SENATOR BRAD HOYLMAN: Good morning, Commissioner. My concern that I hear from my constituents, particularly those who are in the social services arena who care about vulnerable populations in New York State and who have seen their budgets, basically, zeroed out or flat for, you know, this -- in this Governor's budget, what are you doing to identify new sources of revenue? I know that raising taxes is politically a non-starter, but at the same time, I think we need to look beyond this fiscal year for

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future revenue sources. And I would be interested to know what your department is doing to investigate that possibility, whether it's user fees or whether it's ideas like a congestion charge or Thruway fees. I really strongly believe that we need to move away from the one-shots for the budget and look at more systemic ways to fund our government which, I think, at the end of the day, was created, in part, to protect the most vulnerable in our society.

COMMISSIONER MATTOX: Well, a two-part -- a two-part answer, Senator. One, the Department has really stepped up its efforts in terms of earned income tax credit outreach. Last year we held summits around the State. We held an EITC summit in New York City, we held one in the Capital Region, we held one in Rochester. As you know, the State of New York has some of the most generous benefits available in the country at 30 percent of the Federal grant, and more than 1.5 million New Yorkers rely on those programs. So, to your point, with respect to social services, we believe EITC is a very important program and, according to the IRS, one in five wage earners are, in fact, not taking advantage of the program even though they're eligible. So, we've put a lot of time and effort working with community groups around the State to ensure that they are making their clients aware of the benefit and, as you probably have seen, we even have kiosks on Tuesday and Thursday here in the plaza now to help taxpayers with respect to answering questions or preparing returns.

The second part of your question really engages

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DOB. Largely, the types of revenue questions that you've raised would be outside of what we would focus on in our day-to-day business as tax administrators. It really would be DOB's province to model the extent to which there are opportunities to create new revenue sources.

SENATOR HOYLMAN: If I could just follow up with one more question.

CHAIRMAN DEFRANCISCO: Yes.

SENATOR HOYLMAN: So, in terms of exemptions from real property taxes and PILOTs for a sports arena, that's not your purview?

COMMISSIONER MATTOX: We are tax administrators. So, I think there are times when folks read more into our role than is actually there.

SENATOR HOYLMAN: Got it. And then so on that point, let me just ask one more question. Access to paper forms and online tax preparation, can you fill me in on that?

COMMISSIONER MATTOX: Sure. It is still possible for an individual to file a paper return if they choose to. We strongly encourage taxpayers in New York, both individuals and businesses, to file electronically. It's fast, it's easy, it's much safer than moving paper documents through the mail. And for lower-income folks -- the threshold is typically set at \$57,000 -- you can actually file electronically for free. At \$50,000 you can access a variety of volunteer services to prepare your return. We -- there's no question

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that we have a strong preference for an electronically-filed document. It allows us to operate much more efficiently. It's up to five times more expensive to process a paper return than it is an electronic one.

SENATOR HOYLMAN: Thank you.

CHAIRMAN FARRELL: Thank you. We have approximately -- you have warrants and you're now trying to eliminate the warrants. How many warrants do you give out a year, do you know the number?

COMMISSIONER MATTOX: We can have anywhere from 350- to 400,000 warrants issued in a year, in total. We use warrants for more than income execution. So, the income execution warrants typically will range 15 to 20 percent of that total, and the proposal is to eliminate the warrant because the fact of the matter is, we can get a warrant easily. It's literally an administrative step for us. But, it can do a lot of damage to individuals, as I tried to highlight in the testimony. So, what we're proposing to do is to, essentially, pursue the income execution without issuing the warrant. We believe that will save the taxpayer, particularly taxpayers who have found themselves in one-time difficulties. It's not immediately obvious they should carry the burden of having that warrant on their record, and we can easily execute the income garnishment without it with the approval of the Legislature and the Governor.

CHAIRMAN FARRELL: So, what you're basically saying, you're doing this to protect the consumer who may have gotten -- not paid their taxes. You're not going to put it on their -- do you pay

the city clerk, the county clerks?

COMMISSIONER MATTOX: Yes. We carry the administrative costs of pursuing the collection. We really do believe this is in the interests of taxpayers, and I know some folks have had some difficulty thinking that we would be interested in doing that, but the fact of the matter is we often look for ways to be as minimally invasive as possible, and I think this is a good example of that.

CHAIRMAN FARRELL: And this is not a way of making sure that when you go, there's a record of it? You're saying this will be used against a constituent?

COMMISSIONER MATTOX: Well, this is the other way around. I mean, by eliminating the warrant, we are literally taking away a recorded event on someone's credit history, which is what we do now. So, right now we have the authority.

CHAIRMAN FARRELL: I don't think it was put in for that reason though. I thought it was put in to protect the consumer because -- to make sure it was filed and it was done correctly and you knew and you had a central place where all these things go.

COMMISSIONER MATTOX: You're correct, but one of the consequences of that process is that the warrant is now on file and visible as part of a credit history. So you're absolutely correct, but I think we would all agree, that's really the unintended consequence of having filed that warrant is that it can actually harm the taxpayer now because it remains part of that record. And this proposal simply says we'll continue with our collection efforts, but we

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would like to save the taxpayer the potential pain of having that warrant on their record.

CHAIRMAN FARRELL: And you'll do all the notices and everything?

COMMISSIONER MATTOX: Absolutely.

CHAIRMAN FARRELL: As was done --

COMMISSIONER MATTOX: Literally there would be no change administratively other than we wouldn't file that warrant.

CHAIRMAN FARRELL: Things like this bother me, because it's like saying you no longer have to have the signature to bring an action on a loan, that sort of stuff. It creates a lot of problems.

Talking about modern day, the e-paying, how is that going? What's happening? What percentage of people are using it? Do you know that?

COMMISSIONER MATTOX: I'm sorry, Chairman.

CHAIRMAN FARRELL: The e-filing, I'm sorry.

COMMISSIONER MATTOX: Oh, the e-filing. The rates are very high right now. We've been very pleased with the uptake. Nearly 90 percent of individual returns are filed electronically now, and businesses are catching up very quickly. So, as I mentioned, on the sales tax web we're seeing very similar results now that we have a user-friendly platform and more and more businesses are filing electronically now as well. I mean, paper really is becoming the clear exception now and electronic filing the rule.

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CHAIRMAN FARRELL: And now the other thing, you're going to start suspending the taxpayers' driver's license if they --

COMMISSIONER MATTOX: Well, not without legislative and Executive approval to do so, but that is --

CHAIRMAN FARRELL: You would like us to let you do that? I'm sorry. I'll put it in that direction.

COMMISSIONER MATTOX: That is the plan. And again, Chairman, this goes back to, you know, my personal view that a driver's license is a privilege in this State, and if you --

CHAIRMAN FARRELL: Actually, no. It's just an acknowledgment. It's not a privilege. It goes back to letting people know who's driving. It's so you know.

COMMISSIONER MATTOX: I'm sorry. I'm referring to the ability to drive a vehicle and to be licensed to do so in the State of New York, in my view, is a privilege, not a right. So, what we're simply saying is that there are 9,000 motorists in the State of New York who owe the State more than \$10,000 in tax liability.

CHAIRMAN FARRELL: 9,000?

COMMISSIONER MATTOX: There are 9,000, approximately, New York-licensed motorists who owe the State more than \$10,000 each, each. We would like to collect that money.

CHAIRMAN FARRELL: Okay. Senator.

CHAIRMAN DEFRANCISCO: Senator Krueger.

SENATOR KRUEGER: Thanks, just for a few

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follow-ups. My colleague reminded me that you have the tax reform and, I guess, modernization commission that the Governor announced in December. Is your department staffing that commission?

COMMISSIONER MATTOX: Yes, ma'am.

SENATOR KRUEGER: Okay. So, is there a way to find out when meetings are taking place and are they under Open Meetings Law so there are no legislative appointments to that commission, but will those be public meetings?

COMMISSIONER MATTOX: Well, I haven't had the benefit of a formal legal education, but my understanding is that the Commission, being named by a press release, exempts them from Open Meeting laws. The chairs, to my knowledge, have not formally decided on a meeting schedule at this stage. I mentioned earlier that the Commission is still getting organized. But there is no question in my mind that our support of that Commission is subject to review, and we would be happy to keep you informed in terms of the kinds of information that we're providing.

SENATOR KRUEGER: Okay. And in follow-up, so it may or may not be under Open Meetings Law, but if the public wished to submit proposals for reform to the Commission, what mechanism would you recommend?

COMMISSIONER MATTOX: Well, I think one way to do it, which is the channel that I know several of you all have taken advantage of to date and we find quite helpful, is to communicate directly with the Department. We would encourage you, to the extent

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that you have ideas, questions, getting feedback from constituents, we always welcome those communications. Please send them directly to me. We'll respond as best we can. And I see no reason why we couldn't use that channel more broadly for getting feedback to the Commission.

SENATOR KRUEGER: And also, then, in follow-up, Assemblywoman Galef asked about property tax issues and, of course, yes, we know those are established and collected at the local level.

COMMISSIONER MATTOX: That's right.

SENATOR KRUEGER: But is there any reason to believe that this tax Commission wouldn't be open to discussions of reform of property tax? Is there -- your understanding of the mandate of this Commission, would it exclude discussions of reform and modernization of property tax?

COMMISSIONER MATTOX: No. It would not exclude that.

SENATOR KRUEGER: Okay.

COMMISSIONER MATTOX: The conversation that we had in the first meeting was related to your point in terms of what tax programs are most in need of review. So, that conversation, I suspect, will carry through into the second meeting and probably beyond.

SENATOR KRUEGER: Okay. And in follow-up to my colleague Senator DeFrancisco's questions about the change in

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formula for exemption for charitable giving from taxpayers earning more than \$10 million a year, you said you didn't have that information. \$10 million, right, a year? There's only a couple that are \$10 billion a year, Denny.

COMMISSIONER MATTOX: That's a big number.

SENATOR KRUEGER: It's a big number. So, was the answer that you don't have the information but you can do that kind of research? Does the Department have the ability to compare charitable giving by people with income above \$10 million "X" years ago to "Y" years ago?

COMMISSIONER MATTOX: We can certainly do studies and trend analysis. It is my understanding -- and I apologize for not preparing that for you today, but it's my understanding that most of the leverage in terms of those deductions are at the Federal level, not the State.

SENATOR KRUEGER: It's my understanding also, by the way, and I assume that if you did do that kind of study, you would see that there hadn't been significant change in charitable giving, but I think it would actually be helpful to be able to prove that's true, if you have the ability to.

COMMISSIONER MATTOX: I agree. I think you're right. I agree.

SENATOR KRUEGER: I actually think the definition of charity doesn't include tax deductibility anyway, if you look it up, but that's a separate argument.

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COMMISSIONER MATTOX: And I have that on the follow-up list.

SENATOR KRUEGER: Thank you; thank you, Denny.

CHAIRMAN FARRELL: I think that's it.

CHAIRMAN DEFRANCISCO: Excuse me, just one last thing. A follow-up to Senator Hoylman's question about the earned income tax credit. You said a million-and-a-half taxpayers take advantage of it presently.

COMMISSIONER MATTOX: The EITC.

CHAIRMAN DEFRANCISCO: The earned income tax credit?

COMMISSIONER MATTOX: Yes, sir.

CHAIRMAN DEFRANCISCO: And what's the total amount of money that the \$1.5 million -- people have saved? I mean, what --

COMMISSIONER MATTOX: The benefits total in the last full year almost a billion dollars. It's about \$940 million of benefits paid to working New Yorkers.

CHAIRMAN DEFRANCISCO: And is it fair to say that those who are making the minimum wage would be eligible for this earned income tax credit?

COMMISSIONER MATTOX: By definition, it is an earned income tax credit, so you would need W-2 wages to qualify.

CHAIRMAN DEFRANCISCO: Okay. And so, isn't

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it -- do you have any idea what the average benefit to the average taxpayer would be of this benefit, the earned income tax credit?

COMMISSIONER MATTOX: The average benefits -- benefits in general are a function of household size and filing status, so single, joint, joint head of household, et cetera. But they can change, on average, of \$600 or so up to \$1,700. It's a significant benefit in addition to the Federal benefit.

CHAIRMAN DEFRANCISCO: In addition to the Federal benefit. So, if someone is earning the minimum wage in the State of New York, that minimum wage would be supplemented by the earned income tax credit, an earned income tax credit that's the most generous of any state in the country, correct?

COMMISSIONER MATTOX: That's correct.

CHAIRMAN DEFRANCISCO: Okay.

COMMISSIONER MATTOX: All wages would qualify.

CHAIRMAN DEFRANCISCO: I understand. I understand, but there's a debate about minimum wage and whether it should be increased and, if so, how much. But there's another benefit, not only the State earned income tax credit but the Federal earned income tax credit that New York provides the State as well. Thank you. Nothing further.

CHAIRMAN FARRELL: Thank you very much.

SENATOR KRUEGER: Thank you.

CHAIRMAN FARRELL: Have a good day.

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COMMISSIONER MATTOX: You, too.

CHAIRMAN FARRELL: Next is Frank Mauro,
Executive Director, Fiscal Policy Institute.

Frank? Is he here?

SENATOR KRUEGER: Yes, he's here. He's talking
to the Tax Commissioner.

CHAIRMAN DEFRANCISCO: Mr. Mauro, do you
mind coming forward here?

MR. FRANK MAURO: Good morning.

SENATOR KRUEGER: Good morning.

CHAIRMAN FARRELL: Good morning.

MR. MAURO: I'm going to cover six points, but
before I do that, I would just like -- I don't have in my testimony any
comments on the earned income tax credit, but following up on
Senator DeFrancisco's last question, the earned income tax credit is an
important compliment to the minimum wage for low-wage workers. I
think that there's very good reason why the earned income tax credit
should be the only way that workers' income is increased. I think it
should be a compliment of the two. We -- I didn't bring it with me
today, but I'll send you some of our recent reports on the minimum
wage and we feel that the earned income tax credit is important, but
it's a compliment to the minimum wage that employers also have a
responsibility.

In terms of what I'm going to cover today, I'm going
to go quickly through the six points. Number one, the Governor has

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made clear that he is not supportive of any new taxes and we understand that. The point we would like to make is given that austerity measures are still being implemented, such as the reductions in staffing and the Gap Elimination Adjustment that virtually puts us back for unrestricted aid to where we were before the phase-in of the CFE settlement began, that we should not be cutting taxes now either, and we'll talk about a specific tax cut that's on the horizon. It doesn't generate revenue. It doesn't reduce revenue for the fiscal year that starts on April 1st, but it has a substantial effect on the year after.

Number two, New York State should not provide tax subsidies for companies that outsource jobs or otherwise reduce employment in the State. Economic development tax breaks should only go to businesses that create and maintain jobs in this State.

Third, loopholes in tax breaks that allow large multi-state and multi-national corporations to pay proportionately less in state income taxes than small businesses -- that's proportionally less, not less -- should be fixed or eliminated, and the integrity of the Corporate Alternate Minimum Tax should be restored so that large profitable organizations are not able to reduce their tax liability below a reasonable percentage of net income.

Four, provisions of law that allow investment management income to be taxed less than wages or other kinds of business income should be eliminated.

Fifth, New York State should reduce the pressure that it places on the local property tax by increasing revenue sharing with

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cities, towns and villages. That's now called Aid and Incentives for Municipalities, or AIM, and it should increase on an ability to pay the State's share of the cost of both education and Medicaid.

And last, number six, New York State should provide targeted tax relief to long-time residents for whom, through no fault of their own, property taxes on their primary residence have come to represent an inordinate share of their income.

So, I'll go quickly through those six points. Taking number one, an example of an austerity measure, when the Campaign for Fiscal Equity settlement was first adopted, a large number of categorical programs and old operating aid were combined into what's like a block grant called Foundation Aid, and it was the main aid for remedying the underfunding of high-needs districts. So, Foundation Aid -- the Foundation Aid base, what was paid and through the replaced programs in 2006-2007 was \$12.5 billion. That number was supposed to increase by \$5.5 billion, under the settlement, to \$18 billion by 2010-11. But, as you know, in Governor Paterson's first budget that he submitted on his own, he began a freeze and stretch out of the Foundation Aid settlement and he began a process which, in his first year was made up by Federal funds, but since then has actually reduced aid. It's now called a Gap Elimination Adjustment.

So, where are we in terms of the phase-in from \$12.5 billion to \$18 billion? Nominally we're at \$15.005 billion. So, \$15 billion is being proposed this year for Foundation Aid. After a much

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ballyhooed minimal increase last year in Foundation Aid it's proposed to be frozen again this year. But the important thing is this Gap Elimination Adjustment, while it's less than last year, is \$1.8 billion. So where does the Gap Elimination Adjustment come from? Other than Foundation Aid, the aids that school districts receive are basically based on their expenses of the previous year. So, they've made those expenditures and there's a cost sharing formula to it. So, if the Gap Elimination Adjustment comes out of their general fund and not their specific fund, which they've already paid for, that means that the \$15.005-, the \$15 billion, is actually reduced by the \$1.835- Gap Elimination Adjustment and we're back to \$13.17 billion, a little bit higher than where we were in 2006-2007, but nowhere near where the settlement was to take us.

And an ironic thing that we raise in our testimony is the Executive Budget complains about the low average graduation rates in the State. If you go to page 10 of my testimony, this shows the State Education Department's analysis of the graduation rates of different kinds of school districts over the last five years. The cohort years, the year when students start the 9th grade, so the 2007 cohort are the people who started 9th grade in 2007, and if they graduated in four years, they would have graduated in 2011. The Executive budget complains that the Statewide average graduation rate is too low, 74 percent, that, therefore, there's something wrong since we spend a good deal of money on school aid. But the reason why the Statewide average graduation rate is low is because we have many large districts,

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New York City, Buffalo, Rochester and Syracuse, which have very low graduation rates, as the chart shows. So, the Statewide average is a weighted average of many districts with very high graduation rates and a small number of districts with very low graduation rates. So, if your goal -- and it's not a bad goal, we applaud it -- is to increase Statewide average graduation rate, you have to raise the graduation rates in the big, high-needs districts. That's exactly what the Campaign for Fiscal Equity settlement was supposed to do and the districts that were targeted for the greatest amount of aid.

So, complaining about the Statewide average graduation rate in the abstract is like cursing the darkness. It's really misleading to a fault. The corollary of this is of course aid should be targeted to high-needs districts. That means, and it's proven in this year's school aid, that many districts -- we don't have save harmless anymore. Many school districts actually have year-to-year cuts in school aid. A smaller number have two consecutive years of absolute cuts, not cuts in growth, but less than the previous year; yet, raising local taxes to make up for the loss in State aid is considered an increase in the budget and it requires a 60 percent vote. It seems that we are trying to put into place policies that are going to create a downward spiral for some of the high-performing districts as well in terms of saying to the high-needs districts -- the low-needs districts, *We're going to provide -- We're not going to provide you with State aid and you can't make up for the cuts yourself. You have to live with the cuts or get a 60 percent vote.* So, I think that increases in local

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contribution to make up for cuts in State aid should not be subject to the cap and we should -- to help the high-needs districts, we should be resuming the phase in of the Foundation Aid.

In terms of the point of not cutting taxes while we're still engaging in austerity measures like the Gap Elimination Adjustment, the one major austerity measure that we imposed on the revenue side of the budget was a cap on the tax credits that any business could take in a single year, a \$2 million cap, that a business could not take more than -- an individual business cannot take credits over \$2 million in a particular year. That cap is bringing in substantial rev- -- even though it applied -- does not apply to the 2013 tax year, it's bringing in substantial revenue in the 2013-14 fiscal year, but when taxpayers begin paying taxes on their 2013 income, there will be a tremendous loss. Let me read one sentence from the Executive Budget -- this is in the middle of page 4 of my testimony -- to show the implications of this, and this is just for the personal income tax. In regard to the personal income tax, the Executive budget reports that for the 2014 fiscal year, quote, "Total refunds are projected to increase by \$766 million from the prior year, mostly reflecting a \$748 million increase in prior-year refunds due to the partial payback of the deferral of business tax credits."

We think that the -- as long as the cap exists on Foundation Aid and the Gap Elimination Adjustment is being applied to school aid and we have these other austerity measures such as the proposed cuts in funding for illness prevention and health awareness

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programs, that we should be extending the austerity measures on the revenue side as well. This is our recommendation: Just as the 2013-14 Executive Budget proposes to continue the freeze on the implementation of the 2000 settlement of the Campaign for Fiscal Equity lawsuit and to subject the frozen level of Foundation Aid to a Gap Elimination Adjustment, the 2013-14 enacted budget should, one, extend the \$2 billion cap on business tax credits; two, treat credits in excess of the cap in the same way that scheduled Foundation Aid payments in excess of the Foundation Aid caps have been treated; and, three, apply a Gap Elimination Adjustment to the credits. So, our basic point is as long as we're applying austerity measures on the expenditure side of the budget, we should be applying austerity measures on the revenue side of the budget.

Some of our tax credits like the Investment Tax Credit have a mechanism for rewarding job creation. In the years after you receive an investment tax credit, for two years you can receive an employment incentive credit if you increase -- maintain or increase your employment. We think that there are ways this can be improved and it provides a model for other tax credits, that the initial investment tax credit should also have a requirement that you at least have to maintain your level of employment in the State, and we would say reduce the amount of up-front investment tax credit and increase the number of years for which an employment incentive credit is available. The result would be that firms that create and maintain jobs would get more of a tax break and firms that eliminate jobs would get

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less of a tax break. We think the mechanism of the employment incentive credit can be applied to other tax credits so that we're truly incentivizing and rewarding job creation and not just hoping we are and thinking we are.

CHAIRMAN FARRELL: To close.

MR. MAURO: I'll close. There's other material in the testimony and I hope you will read it and I appreciate the opportunity to appear before you.

CHAIRMAN FARRELL: Thank you very much.
Earlene Hooper.

ASSEMBLYWOMAN EARLENE HOOPER:

Thank you, Mr. Chairman. Good morning. I just want to ask one question, a very salient question and very brief. Pursuant to your number six, page 1.

MR. MAURO: Right.

ASSEMBLYWOMAN HOOPER: I represent a suburban area in Nassau County where I believe we are probably the second-highest taxpayers as it relates to real property taxes in the nation. And I'm just asking for your input or maybe your suggestion.

You indicated in six that New York State should provide targeted tax relief to long-time residents for whom, through no fault of their own, property taxes on their primary residences have come to represent an inordinate share of their income. My concern and my question is, and I don't know whether or not you are in the position or have the answer, but I would like to just put this at least in

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the record. In Nassau County -- and I cannot speak for the other counties, and it is very plausible that other counties and other real property owners are experiencing what I'm about to present. As we are all aware, the real estate market and, therefore, the value of real properties have dropped precipitously; yet, at least in my county, there has been no effort to reduce the assessed value nor the real property tax burden on these less-than-valuable real properties. What and how -- what do you think of this issue, and what do you suggest that we, in the Legislature -- how do you suggest that we address this burdensome financial, economic problem on these long-time real estate, one-family, usually, homeowners who not only are experiencing a large and inordinate share of their income on their taxes, but they're paying taxes on property that has been reduced in value?

MR. MAURO: Right. The bottom line we're trying to get to is the overburden is the property tax bill related to your income, what can you afford. If you go to the last page of the testimony, page 12, I think this shows the magnitude of the problem that you're raising. This is an analysis we did of the microdata that the --

ASSEMBLYWOMAN HOOPER: Are you at the top or the bottom of page 12?

MR. MAURO: Page 12.

ASSEMBLYWOMAN HOOPER: Are you "More than 700,000" or "Nearly half"?

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MR. MAURO: "More than 700,000 --

ASSEMBLYWOMAN HOOPER: All right.

MR. MAURO: -- New York lower- and middle-income households" -- and there's an asterisk saying that it's -- we're talking about households with incomes below \$100,000 a year or less --

ASSEMBLYWOMAN HOOPER: Yes.

MR. MAURO: "-- who meet the five-year residency requirement of the Galef-Little and Krueger-Englebright circuit breaker proposals." So, more than 700,000 such households pay 10 percent or more of their income in property taxes and close to a quarter-million pay 20 percent or more.

You are correct that in Nassau County and the New York City suburbs, both in New York and New Jersey, are where in the United States property taxes are highest relative to income, but there are people throughout the State, in smaller percentages, for whom property taxes are a high percentage of income. We think the way to target relief to people who are in that life situation whose homes grew in relative value over time, the share of property taxes are high relative to their income and it isn't because they bought a house which was too expensive, that the way to target relief individually is a mechanism through the income tax, generally known as a circuit breaker , which ensures that there is tremendous relief for the portion of property taxes over a percentage of your income. So, to simplify, what you could -- what the Galef-Little and Krueger-Englebright bills

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do in the general is to say if you're -- and I'm going to over simplify -- if your property taxes are more than 10 percent of your income, you'll be eligible for a refundable credit of 70 percent of the overage.

So, things like STAR have been well established and it's going to be very difficult to reform STAR, even though it needs reform, but it gives a little bit of money to everybody. It isn't really targeted based on income. So, what we need to do to use money efficiently, if we're not -- you know, if we can't make the tax system completely fair, but we have to use resources in an efficient manner, is to target relief to the people for whom property taxes are an inordinate share of their income. In deciding on how to do that targeting, the Legislature and legislation can decide on what the threshold should be. Should it be 10 percent, should it be 9 percent, should it be 11 percent, should it be something else? So, what's the threshold over which we feel that the person is overburdened and what share of the overburden should the State provide?

There are also -- the Galef-Little bill also has a limit on the size of the credit, the amount of relief a taxpayer can reach, of \$5,000. Perhaps it should be higher. I've thought perhaps \$10,000, but I think there should be a cap because that, in an indirect way, deals with oddball situations where somebody might have a tremendous amount of money but very little income and a very expensive house. And so, the way to get at that is simply to -- I think what the Galef-Little bill now has in its latest incarnation is a cap. Perhaps the cap is too low, and that's another factor the Legislature could decide.

But I think that mechanisms like the property tax cap slow down the growth in property taxes but they don't address the overburden. Picking up a greater share of local costs through our recommendation of increased revenue-sharing, increased school aid and increased Medicaid takeover will actually reduce the pressure on the property tax, but there are still going to be people who are overburdened individually. And while there will be greater concentrations of them in Nassau County and the other New York City suburbs, there are people in Syracuse and Rochester where, overall, the property taxes as a percentage of income are not high, but there are people in those cities for whom property taxes are very high relative to their income. And so, we think the relief should be targeted to the individual taxpayer and not be based on a blunder bust across-the-board mechanism.

ASSEMBLYWOMAN HOOPER: Very briefly, are you suggesting, therefore, that there is little, if anything, creatively could be discussed as it relates to the devaluation of the real property?

MR. MAURO: Well, of course property should be valued as currently as possible and that will provide some relief, but -- so, we should do that, but I think even if property tax assessments were perfect there's still going to be people who are overburdened relative to their income. So, yes, improve the assessment process, do assessments more frequently, update assessments, but even if you had a perfect assessment system, if God did the assessments, you would still have people whose property tax bills are an inordinate share of

their income.

ASSEMBLYWOMAN HOOPER: Thank you very much; thank you, Mr. Chair.

CHAIRMAN FARRELL: Thank you. We've been joined by Assemblyman Bill Colton.

Senator? Questions?

CHAIRMAN DEFRANCISCO: Senator Krueger.

SENATOR KRUEGER: Thank you. Frank, my understanding is you're going to be retiring from Fiscal Policy Institute?

MR. MAURO: In the summer.

SENATOR KRUEGER: In the summer. So, this may be your last testimony before us in your current capacity.

MR. MAURO: Right. I might come back as a citizen.

CHAIRMAN FARRELL: We look forward to it.

SENATOR KRUEGER: I hope you will come back as a citizen, and just on behalf of myself, I want to thank you for your service. I don't know how much I've learned from you; it's almost an endless collection of important information, both on tax policy and on public policy and on government from long before I got here to the Senate. So, I just want to acknowledge and thank you for the incredible work you have done on behalf of 19.5 million New Yorkers.

MR. MAURO: Thank you.

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SENATOR KRUEGER: Thank you.

(Applause)

CHAIRMAN DEFRANCISCO: Ditto from everyone on the panel.

CHAIRMAN FARRELL: Thank you very much.

MR. MAURO: Thank you.

CHAIRMAN FARRELL: Ron Deutch, Executive Director, New Yorkers for Fiscal Fairness.

MR. RON DEUTSCH: Thank you very much for the opportunity to be here today. Frank Mauro is a hard act to follow, and I would also join with the Senator in singing the praises of Frank Mauro. No one has taught me more about public policy in New York State than he has, and one of the greatest things about him is he really treats everybody the same, whether he's talking to a legislator or talking to an intern, which is when I first met him. So, I thank him as well. But, that's not what we're here for today. And regrettably for you, you have many more years dealing with me sitting in this chair. So, I will hopefully carry on his tradition.

But, I want to talk a little bit today about the situation that we're in in New York State. We're facing record levels of homelessness, record levels of hunger. We have child poverty rates in some of our Upstate cities that are around 50 percent, whether we're talking about Buffalo, Syracuse, Rochester, Schenectady, the list goes on and on. We have record foreclosures in New York State. We have a crumbling infrastructure. We have schools and cities on the brink of

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financial ruin. All of this set against a backdrop of the greatest income inequality, as well, of any state in the nation right now. So, how do we address this? What do we do about it? It seems at this point we're throwing our hands up and not addressing it. In fact, you know, we've been cutting many of these programs over the last few years or flat funding, whether it be for cities, whether it be very modest increases in funding for schools, set, again, against a backdrop of enormous cuts from prior years. We have some serious issues that we need to contend with in New York.

But one area of the budget that seems to go untouched year after year are these business tax expenditures, corporate subsidies, economic development grants and loans. We've certainly been providing a lot of those over the years. And I guess my question to you is -- and Frank outlined a number of ways that we can maybe close some corporate tax loopholes and change our corporate tax structure a bit to make it more fair, but we're spending \$7- to \$8 billion a year on these programs and I don't believe there's enough accountability, first of all. Second of all, we haven't put these programs under a microscope the way we have education spending, the way we have AIM spending. You know, we're curtailing and/or freezing those types of spending while, at the same time, you know, we've seen from 2008 to 2012, according to the New York State Business Tax Expenditure and the annual report of New York State Tax Expenditures, our State business tax expenditures grew from \$3.4 billion in 2008 to a forecasted \$4.2 billion, a 23 percent increase. So,

we need to make sure that we put these programs under a microscope. Frank pointed out that we can create more of a litmus test for how we provide these tax expenditures. Why don't we make sure that we're not providing tax subsidies to businesses that are sending jobs overseas, that are cutting their levels of employment? We need to reward businesses that are, in fact, creating jobs. So, I think we need to reconfigure our current corporate tax structure to address that fact and, certainly, our economic development tax policies need to reflect the fact that while we're open for business, we shouldn't be giving away the store.

So, with that said, I also want to touch on a number of different things. You know, we have a number of companies in New York State, very profitable companies, that avoid paying State income taxes, that avoid paying Federal income taxes. Why? Because we have lots of loopholes in our current Tax Law and we have an alternate minimum tax that's been seriously eroded over the last 20 years or so. The Corporate Alternate Minimum Tax was basically designed to make sure that profitable companies pay something in taxes in New York State because they've developed loopholes and ways to get around and practice tax avoidance. So, we had, back in the mid '90s, I believe, we had a Corporate Alternate Minimum Tax that was somewhere in a reasonable range, right? We set it at 5 percent originally, when the corporate tax rate was 9 percent. That had been eroded over the years. Now we're at a 1.5 percent Alternate Minimum Tax and .75 percent for manufacturers.

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So, we've seriously eroded the Alternate Minimum Tax and that's resulted in many corporations paying very little, very profitable corporations paying very little in the way of corporate taxes. We've seen a significant decline in corporate tax revenue in New York State. In 1994 it was at a high of about 16 percent of overall State tax revenues. Now we're at about 9 percent of State tax revenues.

So, another thing I want to address here is this issue of -- that was brought up about the Tax Reform and Fairness Commission. As you all know, back in 2011, when the Governor and legislative leaders reached a deal, the grand tax reform deal, they announced the creation and formation of this Tax Reform and Fairness Commission. My understanding was that it was going to be comprised of seven appointments from the Governor, six from the Legislature. The Governor, again, in his State of the State, made that promise and said we would have this tax commission. Now, a year later, in December of 2012, the Governor announced the appointment of a 10-member commission and it would appear that you've all been either left out of that process willingly or, you know, told the Governor, *You go ahead and you create your own tax commission*, but I think it's probably the former rather than the latter. So, I would suggest that you seek appointments to the tax commission. I would also strongly suggest that this Tax Reform and Fairness Commission, the hearings be public and, most importantly, that property taxes be included under the purview of this tax commission. How can we really have a Tax Reform and Fairness Commission that only looks at

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sales tax, corporate taxes and income taxes? We have to include property taxes in that mix. I think the problem has been we've looked at taxes in silos here in New York. We're denying the fact that all of these taxes are interconnected, inextricably so to the point where we would do a disservice to the citizens of New York if we had a tax commission that didn't include property taxes as well.

Frank pointed out a number of statistics around property taxes. I don't necessarily need to go into those, but suffice it to say we have over 700,000 households with incomes under \$100,000 a year that are paying more than 10 percent of their income in property taxes; \$250,000 households pay more than 20 percent of their income in property taxes. We need a solution to this problem. The tax cap was not that solution. If I could not afford my taxes prior to the tax cap, then I certainly couldn't afford my taxes after the tax cap. So, we have to recognize that there are many residents in New York State that desperately need help. Senator Krueger's bill is certainly a wise way to go. It creates the circuit breaker that we were just talking about or Frank was talking about under questioning. I believe a circuit breaker is a perfect short-term solution to this problem. We need to make sure that we get one enacted. We have one on the books. It hasn't been updated since 1985. I believe to qualify for it now your home value must be below \$85,000 and your income below \$18,000. So, very few people actually get to take advantage of that circuit breaker. But we need some logical way to tie property taxes to income. There is no correlation right now, all right? So, if you lose

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your job, your income taxes go down. If you lose your job, your property taxes don't go down at all. So, there's no correlation there.

So, in the long term what we need to do is look at having the State pick up more of the cost of education, of Medicaid, making sure that the State provides AIM payments in a realistic way, right? Municipalities are paying their taxes and giving their revenue to the State. The State is supposed to be sharing that revenue, again, with those municipalities and that simply is not happening to the degree it needs to happen right now. And the tax cap has further constrained the ability of localities and school districts to raise money. You know, we were told we needed a tax cap put in place to instill fiscal discipline at the local level. Well, maybe some of that's happening, but we're also seriously hampering the provision of services, whether we're talking about schools or municipalities, and asking them to continue to do more with less, and I don't think that that's fair.

So, with that said, I also wanted to say that the tax changes on the personal income tax that were enacted in 2011, I believe that's also something that the tax commission should be looking at. And the last page of my testimony is a chart that Frank Mauro was able to put together, and it shows of the 2011 tax reform, the biggest winners in that were people with incomes between \$500,000 and \$2 million. They saw about a 23.6 percent reduction in their taxes, whereas the average middle-class family -- and, again, this was billed as "middle-class tax relief," I'll remind you -- the average

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middle-class family in New York State, say, making \$55,000 a year or so would see anywhere from a \$20 to a \$50 tax cut. So, maybe a night out at the movies with no popcorn, but I think we can do better and we should do better.

CHAIRMAN FARRELL: Thank you very much.

Questions?

Mr. Colton.

ASSEMBLYMAN WILLIAM COLTON: Yes.

Thank you. I think one of the problems that we have seen in terms of the tax structure is that in the issue of tax fairness where some people don't pay their fair share, what it does is it requires the vast majority of the population to pay an unfair share. And I think that, you know, that has to be remembered every time we deal with, you know, tax reform. For example, I looked -- the New York State Tax Department publishes a list of tax delinquents, people who have warrants against them. And in terms of the businesses, the top ten businesses that are delinquent in taxes, it amounts to \$110 million out of, you know, just ten businesses that are delinquent.

Is there any suggestion you have in terms of how the State Tax Department can address that? And I think one way they did it, obviously, was publishing this on their website, this list of delinquents, to embarrass people, to expose them. I looked at it. I see a couple of names of companies that are ongoing that are still doing business and yet they owe \$2-, \$3-, \$4 million, sometimes, in withholding taxes. So, is there any suggestions you would have in

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terms of addressing how do we get people to pay taxes that they are due which they have not paid?

MR. DEUTSCH: I think that there have been some measures taken where, you know, we're going to take away people's driver's license, potentially, if they don't pay their taxes or take other measures against them if they don't pay their taxes. But, I think you're right. I think enforcement of our current tax laws is something that's desperately needed. We need to make sure that, where possible, we're going after delinquent taxpayers, especially those, you know, probably at the higher end of the income spectrum who can afford to pay their taxes but may be avoiding them.

MR. COLTON: And the other thing that impresses upon me, I have senior citizens in my district who own a home and they may be on a fixed income. Hopefully, their mortgage has been paid off but, yet, the amount of real estate property taxes that they're subjected to may eventually encourage them to have to leave their home. And, you know, that -- you know, it strikes me as very disturbing that since, you know, in all these years we have not really adjusted the amount of tax abatements we give to somebody on a limited income. \$85,000 for a home in New York State is very -- it's ludicrous. So, I mean, I think that that point you made is very well taken, that we need to look at that because that will affect a lot of people who have low incomes, fixed incomes and who are literally being driven out of their homes if we don't that kind of tax reform.

MR. DEUTSCH: Agreed.

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MR. COLTON: Thank you.

MR. DEUTSCH: Thank you.

CHAIRMAN FARRELL: Thank you.

CHAIRMAN DEFRANCISCO: Thank you very
much.

SENATOR KRUEGER: Thank you, Ron.

MR. DEUTSCH: Thank you.

CHAIRMAN FARRELL: John Whiteley, Legislative
Affairs Officer, New York State Property Tax Reform Coalition, to
close.

MR. JOHN WHITELEY: Good morning, Mr.
Chairman, Mr. Chairman, distinguished members. Good to be here
again. Thank you for having me. And, again, I speak on behalf of the
New York State Property Tax Reform Coalition, a volunteer
organization representing the interests of taxpayer groups and
individuals Statewide who seek relief and reform via State legislation.

Last year I spoke about the nearly 700,000 residents
with household incomes under \$100,000 who pay at least 10 percent
of their income in property tax on their homes, an unsustainable
burden which puts these families among those most at risk of being
forced out. And updated data, which you've just heard about from Mr.
Mauro and Mr. Deutch, shows that the figure now exceeds 700,000
households. For 250,000 of these families, the tax consumes over 20
percent of their income. A tax levy cap is of questionable value to
those already so close to the edge, and the conceptually-flawed STAR

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formula ignores the reality that the only fair measure of property tax burden is each individual household's tax bill in relation to the income available to pay it. Only the circuit breaker deals with that reality, and the State's continued failure to reprogram to a circuit breaker any of the nearly \$2 billion it has cut from STAR in recent years is shameful, in our view, especially when such programming was specifically recommended -- such reprogramming was specifically recommended by the State's own Commission on Property Tax Relief in 2008 and when, perversely, the urgency of a middle-class circuit breaker continues to increase due to the same recession which has held up the several good circuit breaker bills that address the problem, including, in particular, Senator Krueger's bill. I'll return to that at the end.

We view the circuit breaker as meaningful property tax relief for those most overburdened who can't wait for the considerable time it will take to enact and implement what has always been our long-range goal, which is fundamental reform of the school funding system to reduce its unreasonable dependence on the inherently inequitable property tax. But since last year, the financial plight of many of our schools, due in large part to the State's self imposed spending cap, has worsened to a point which demands our equally-urgent attention. Many of us believe that the property tax cap, as it turns out, has provided leverage for angry parents, frustrated educators and ordinary taxpayers, like ourselves, working together to rightfully insist that Albany finally bite the bullet and begin to fulfill its constitutional responsibility to, quote, "Provide for the maintenance

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and support of a system of free common schools wherein all the children the State may be educated."

We hear the chorus of discontent growing louder. We hear rumblings of the practice so long entrenched whereby the State imposes much of the cost of its laws and regulations upon local districts, while it's self-contributing only what it determines to be fiscally other otherwise convenient in any given year may, itself, not pass constitutional muster. A few of us are constitutional scholars or even lawyers, but the events of the past couple of years have led more and more of us to question the logic of continued dependence on an antiquated tax system whose relationship to modern economic and demographic realities grows ever more tenuous. More and more of us now ask why it is that the State can treat its fiscal situation in isolation, close its budget shortfalls, quote, "with no new taxes," unquote, while local property taxes continue to escalate due, in large part, directly or indirectly, to State tax and fiscal policies, the \$2 billion STAR reduction being just one blatant example.

We welcome the Governor's proposed Tax Reform and Fairness Commission in the hope and belief that he will recognize the need to include all taxes levied in New York, including, in particular, the property tax, if such a forum is to be truly meaningful. We look forward to working with him and with any and all legislators who, hopefully, will be involved.

Since this is a budget hearing, our main point is that we think the time is coming, perhaps sooner than any of us might have

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expected, when New Yorkers will insist that Albany significantly increase its share of the responsibility for funding schools, in particular, but also give more aid to counties and municipalities. Gradually centralizing most core school funding would not only provide fundamental tax reform, it would eventually help control overall costs while preserving and enhancing education quality. The State must figure out now, even in this still-austere environment, where the revenue is to come from in future years to meet that demand. Some of the ideas are out there that we've heard this morning, closing the corporate and other tax loopholes, talk about allowing casinos, talk about encouraging a Federal stock transfer tax to fund education. There have to be others. We can't just cut our way to prosperity. And, yes, some of that revenue is needed now to fund a circuit breaker to save the homes of those who can't wait for the long-term reform.

I will also repeat the suggestion we made last year to follow the New York State Property Tax Relief Commission's recommendation to fund the middle-class circuit breaker by restructuring a portion of STAR. That can still be done, albeit more limited now, and in a way that preserves STAR for all current beneficiaries who wish to keep STAR instead of transferring to a circuit breaker and remain in their current home. Our updated proposal is attached. It won't fully fund the circuit breaker, but it would help. And long term, it would save the State money, but if it's not politically acceptable, as some seem to believe, we'll need that

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much more from new revenues. Thank you for this opportunity. I would be pleased to respond to any questions.

CHAIRMAN FARRELL: Thank you. One question.
Question. Mr. Oaks.

ASSEMBLYMAN OAKS: Just a very quick question. You had mentioned the 700,000 people, that's now gone above 700,000, whose incomes are under \$100- and pay at least 10 percent of their income. Is that including their STAR exemption or not including their STAR exemption, do you know?

MR. MAURO: It's including it.

ASSEMBLYMAN OAKS: Thank you.

MR. MAURO: Yes. It's from the Census Bureau survey --

CHAIRMAN DEFRANCISCO: Where's that coming from?

MR. MAURO: -- on how much property tax is actually paid.

CHAIRMAN DEFRANCISCO: We got audience participation.

CHAIRMAN FARRELL: Frank is not wrong.

MR. WHITELEY: Okay.

ASSEMBLYMAN OAKS: Okay. Thank you.

SENATOR KRUEGER: Thank you, John.

MR. WHITELEY: And thank you.

CHAIRMAN FARRELL: Thank you. We will be

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adjourned until 1 o'clock.

(Whereupon, the budget hearing was adjourned at
11:30 a.m.)