

1 NEW YORK STATE SENATE

2 STANDING COMMITTEE ON BUDGET and TAX REFORM

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4 IN THE MATTER OF THE PUBLIC HEARING

5 Evaluating the Equitability of New York State's

6 Business and Banking Tax Structures and their

7 Effectiveness to Foster Economic Growth Statewide

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9 Senate Hearing Room
10 250 Broadway
11 19th Floor
12 New York, New York

13 May 21, 2009
14 Thursday
15 12:30 p.m.

16 BEFORE: Senator Liz Krueger
17 Chair

18 Also Present: Senator Bill Perkins

19 Senator Michael Ranzenhofer

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1 P R O C E E D I N G S

2 SENATOR KRUEGER: Good afternoon.

3 I'm Liz Krueger and I'm joined by my
4 colleague Bill Perkins and our other
5 colleagues seem to have gotten lost along
6 the way, but plan on being here.

7 I want to thank everybody for joining
8 us. And just to let all of you know, I have
9 a staff around if you need to ask any
10 questions or have concerns.

11 I ask everybody to keep their testimony
12 to ten minutes, and David, who is sitting
13 right here behind the table where you will
14 be testifying, he will scribbling a little
15 note letting you know that you are getting
16 close to the ten minute mark. And getting
17 everybody set up and we're televising this,
18 but the Senate is attempting to make sure
19 that all of our hearings are televised
20 internal to our Senate web system so that
21 people could watch like if they are at
22 computers somewhere and then it would be
23 recorded and available on Senate Select
24 Committee on the Tax and Budget reforms

1 website.

2 Anyone who feels to turn on the hearing
3 and watch you all testify and you could do
4 the same, and then also anyone who has
5 submitted testimony for the hearing whether
6 they have testified for today or whether
7 they are just submitting their testimony,
8 that will also be up on our website and, in
9 fact, we had a hearing in Rochester two
10 weeks ago and I believe that the testimony
11 from that hearing is already up on the
12 website.

13 It's a new model from the Senate
14 Department in trying to bring government to
15 the people of the State of New York such
16 that if the people can't come, they know
17 that they could submit testimony that they
18 know that will be available, that they could
19 watch the proceedings of the hearings and
20 it's a learning curve, so we'll figure all
21 of this out as we go along.

22 My name is Liz Krueger and I chair the
23 Select Committee on Tax and Budget Reform
24 and I'm joined by my Colleague Senator Bill

1 Perkins from Harlem.

2 Much like this month's erratic weather,
3 it is almost convinced that summer is here
4 today, the economy is sending mixed signals.
5 Even as job losses continue to mount
6 nationwide, a consensus is growing among
7 Economists that concessions could send on
8 the third-quarter of this year.

9 Federal Reserve Chairman Ben Bernacki
10 earlier this month says that he "expects
11 economic activity to bottom out and return
12 at the end of this year." We are hesitant
13 to embrace these losses and over the New
14 York State private sector, lost 160
15 thousand, over 27,000 of those losses were
16 here in New York City, and just yesterday
17 the Governor announced that he is projecting
18 an additional \$3 billion dollar hold in the
19 New York State budget based on the New York
20 revenue based on Comptroller DiNapoli.

21 Sooner or later, the economy will
22 rebound and the question is to reflect what
23 needs to be done to reflect that the New
24 York City tax reform reflects the needs of a

1 post-recession world.

2 A particular interest for us today is a
3 Corporation and a Banks tax which is
4 Articles 91 and 32 of the Tax Law. As the
5 Chair of the Select Committee, I keep joking
6 that I want to make taxes sexy. Too many
7 people's eyes glass over when you start to
8 talk tax policy. We know that everything in
9 Government that one of the revenues coming
10 into the State covers what do we have
11 available in order to debate the public's
12 needs, that they depend on us to provide for
13 them the other local governments are in the
14 same situation.

15 Even before the National recession
16 began on November of 2007, New York Bank
17 buildings received the Banks Tax breaks of
18 tax structures that significantly
19 deregulatory charges from the Grants acted
20 in 1999. Which leveled many walls
21 separating banks and non-banks, financial
22 services company.

23 For example, businesses also appear to
24 be behind the times when considering

1 conformity issues, such as a State's issues
2 for business activities and the City's lack
3 of the same practice. Given that merely
4 three-fourths of the 27 tax expenditures
5 established under the State Banks tax were
6 created in 1986 or earlier providing the
7 Savings and Loan crisis. We must also ask
8 whether these taxes or incentives are
9 effectively prosperous developments.

10 In 2005, The state made \$580 million
11 dollars of tax expenditures under the bank
12 tax. When our taxes fail to keep pace with
13 the over-involving business world, the State
14 considers creating the inequities among
15 taxpayers.

16 The potential of those taxpayers to
17 abuse the system likewise is elevated one
18 way or the other, such threatening the
19 economic opportunity and when it comes to
20 tax expenditures, we must make sure that
21 they work for the State.

22 Tax incentives must motivate genuine
23 motives. It's not artificial changes that
24 result in crafty book keeping practices or

1 what's been known as shirt changers by
2 businesses.

3 If the state continues to demote
4 hundreds of millions of dollars to ineffective
5 tax incentives that will only further
6 diminish to use the taxes to provide Public
7 policies. In greentech and agricultural
8 entries, states such as Pennsylvania, Ohio
9 and New York, has established the target
10 these industries. As from New York, we need
11 to guarantee that there is a bright future
12 both for our New York city economy and for
13 Upstate economy.

14 We need to work towards these
15 initiatives. Senate Majority Malcolm Smith
16 last week sent New York on the right course.
17 He announced plans to create an economic
18 developments tax force charged with drafting
19 the blue prints for whatever replaces the
20 Empires Zones Program, which is said to
21 expire in 2007. The Tax Force will consist
22 of the business and community leaders, and
23 by December of this year, will make
24 recommendations of the Senate on how to

1 replace the Empire Zones Program. In 2005,
2 The Empire Zones Program, cost us
3 approximately \$500 million dollars. But was
4 only less than a quarter of \$2.28 billion in
5 tax expenditures under our corporate
6 franchise laws. With these corporate
7 franchise laws, we have a greater
8 opportunity to propagate matter developments
9 opportunities here in the City and
10 Statewide, but we need to ensure that
11 businesses, large and small, can access
12 these opportunities. The process for
13 receiving them, must be both transparent and
14 equitable.

15 Furthermore, I believe we must evaluate
16 all these proposals in the contention of
17 winners and losers. Tax breaks are, in
18 fact, likely to be regressive. They are
19 worth more to those who receive generous
20 work praise benefits or have the means to
21 engage in tax subsidized activities, we must
22 factor that into our negotiations as well.

23 I don't believe this is an argument
24 against all tax expenditures and propose

1 public good and policy in New York State.
2 But the purpose and effect of these hundreds
3 of individuals and corporate expenditures
4 must be regularly scrutinized and evaluated
5 and openly debated.

6 The size of our State's budgets alone,
7 would seem to mandate that any serious
8 analysis to reduce the budgets deficit of
9 tax expenditures and tax subsidies and like
10 other spending programs, tax incentives
11 ought to be evaluated on the following
12 ground:

13 Is the expenditure decide to serve a
14 direct public purpose.

15 Is the expenditures actually helping to
16 achieve stated goals.

17 Are the losses of State revenue
18 justified by loss revenue and are the
19 benefits of these failures distributed or
20 are they disproportionately targeted to
21 those who do not need Government's
22 assistance.

23 And finally, fundamentally, we have to
24 make sure that any tax we support at that

1 level allowed for a fair and even playing
2 field and don't create the unintended
3 consequences of what I call "rage wars" what
4 I call different businesses or different
5 locals in the State of New York. New York
6 became the business capital of the world by
7 making good investments. Like Wall Street,
8 some of our economic developments programs
9 went astray but none have completely lost
10 the potential inherent the to them.

11 We have gathered this format today. To
12 unleash the potential of New York businesses
13 through our Banks' taxes and our business
14 tax policy and I do believe that the 21st
15 century calls for all of us to be evaluating
16 what has come before and evaluate what works
17 and doesn't work and so I'm delighted that
18 so many of you have come forward willing to
19 share your expertise and your opinions about
20 what we are to be doing for the coming year.
21 I would like to thank you. Do you have any
22 opening remarks Senator Perkins?

23 SENATOR PERKINS: I have ten pages.
24 I will express my appreciation for the

1 opening remarks which I may associate
2 myself.

3 I am really preoccupied with the fact
4 that there are so many people that are so
5 wealthy and there are growing numbers of
6 people who are not well off at all.

7 My interest in this is to see how we
8 fix it so the wealthy is not so wealthy, and
9 the Government is not so supportive in
10 increasing that kind of cap. Whether it's
11 through these kinds of arrangements in terms
12 of corporate taxes or whatever.

13 SENATOR KRUEGER: Our first testifier
14 will be Matthew Gardner. The Director of
15 Institute on Taxation and Economic Policy.

16 MATTHEW GARDNER
17 Executive Director

18 Institute on Taxation and Economic Policy

19 MR. GARDNER: Hi. I'm Matthew
20 Gardner. Thank you very much for having me
21 here. My name is Matt Gardner, I'm here to
22 represent the Institute of Tax and Economic
23 Policy. We have a little bit of background.

24 We unleashed the report at the height

1 of the CFEB case called, achieving
2 inadequacy. The report focused on a lot of
3 reform to the New York Tax system that
4 included to make the income more progressive
5 reforming the Star Property tax incentives
6 and reforming the property income tax and
7 one of the things is that it would be a very
8 bad idea to enact the single sales factor.
9 I will have to rewrite that chapter I guess,
10 but we'll talk about that today.

11 The concerns I've heard you mention so
12 far, Senator Krueger are quite applaudable.
13 At a time like this, it's absolutely vital
14 that we examine every element of our tax
15 system. All of the existing tax breaks and
16 any potential tax breaks and ask these vital
17 questions. Are they equitable? Are they
18 creating jobs and are they creating good
19 jobs?

20 What I would like to do in the time
21 that I have available, is first, give you a
22 little bit of background on what we see
23 going wrong with the Corporate Tax System.

24 And second, talk about some of the good

1 things that New York City has done to fix
2 these problems.

3 And three, to examine several of the
4 existing problems that could be addressed
5 with an eye towards existing and economic
6 developments. And like you, Senator Perkins
7 I've got ten pages. But I'm not going to
8 read it.

9 First, just a quick overview. We've
10 done reports in the past several years with
11 regards to the extent of tax avoidance in
12 New York and across the nation and what we
13 found is startling evidence that some of the
14 biggest and profitable evidence of the
15 conditions have managed to find a way to pay
16 zero or less than zero in corporate taxes at
17 a time when they were more profitable.

18 About three or four years ago, we found
19 that the two hundred fifty biggest companies
20 pay while 72 managed to not pay any income
21 taxes between 2001 and 2004 and more than
22 ten of them is based in New York. It's a
23 problems that's identified in New York.

24 One of the reasons that the New York

1 legislature has directly in our view has
2 identified in the past for the tax avoidance
3 is companies artificially hitting profits
4 from highest jurisdiction or no tax
5 jurisdictions paying these taxes, New York
6 City has already enacted the most important
7 remedy compound report for New York State
8 incomes.

9 One brief comment on that, while again,
10 I think that it's important to recognize the
11 combined reporting is the single more
12 advanced you could do. There is, in fact,
13 more on the horizon that New York and most
14 confirm states, could firm up their combined
15 reporting rules.

16 In technology, there is some evidence
17 that most States companies are finding it in
18 their interest to become multi-national
19 companies. If not on paper and achieving
20 the same thing in the Cayman Islands that
21 they used to achieve in Delaware. And
22 several states that already have combined
23 reporting have taken steps to expend the
24 waters edge rules. These known foreign tax

1 states that New York could and should do the
2 same.

3 Now to the bad news. As I said, a
4 couple of things have changed in the
5 corporate tax rules since I last wrote about
6 these issues.

7 I'll present you with a hypothetical.
8 If you, as a Committee, valuated proposed
9 tax proposals. Were presented with an idea
10 that contained no job creation guarantees
11 whatsoever, that actually encouraged some
12 employers to pull up stakes and leave. And
13 effectively posted a sign at the border
14 saying "don't build a warehouse here. You
15 probably not look very sympathetically on
16 this plan. Yet, I'd say that is a fair and
17 accurate way to describe this impact of the
18 changes that have been enacted in the last
19 several years.

20 I will make a few quick points about
21 this. First while the single sales factor
22 is described by it's advocates as a tax cut
23 for manufacturers, first and foremost,
24 that's absolutely accurate. However, it's

1 also accurately described as a tax shift
2 away from this one class of companies,
3 manufacturers who produce things in New York
4 and ship most or all of their products to
5 the United States or overseas.

6 It's also a tax hike on other
7 companies. In particular, companies who
8 have little or no New York State Employment
9 that sell their employment in New York, will
10 see their tax go up. And, in fact, probably
11 have. And, of course, companies that do
12 business only in New York State can derive
13 no benefit at all from the single sales
14 factor mechanism multi-state manufacturers
15 or mom and pop companies. Zero.

16 Perhaps the most worrisome from the
17 economics developments perspective that
18 you've raised this afternoon, the single
19 sales factors actually creates an incentive
20 for multi-states companies that already have
21 facilities to eliminate them. And creates a
22 disincentive selling to New York that do not
23 yet have facilities but are thinking about
24 creating them to not do so.

1 Single sales factor economically has a
2 double-edged sword. Which edge of the sword
3 dominates we are not clear. We do note that
4 the folks that lobby, can do so, they don't
5 do it where the taxes could go up. But you
6 should absolutely be concerned about the
7 equity impact on the single sales factor on
8 the New York State corporations.

9 A couple of other existing smaller
10 scales provisions that I will draw attention
11 to.

12 One, is a brand new one that you don't
13 have to worry about three months ago. The
14 cancellation of death improvisation which
15 you probably heard about already, the
16 Washington based group put out earlier this
17 week, estimating 2010 this could cost the
18 state \$200 million dollars in fiscal alone.
19 The idea is that companies that borrowed
20 money in the last few years in 2009 or will
21 do so in 2010. This is forgiven income and
22 once they do report it, they could phase it
23 in between 2014 and 2018. This is to be
24 clear a deferment of tax not an elimination

1 of tax. That is one that probably has an
2 uncertain or substantial impact in New York
3 if allowed to take effect.

4 Three states have already enacted to
5 decouple of course, every Court in the State
6 of New York has the option of rejecting cuts
7 of this sort and more, are now considering
8 it. And again, the narrow question is
9 "What's in it for New York whether or not
10 adopting this change?" The answer is not
11 much. To the extent that the jobs are
12 preserved, it's not at all obvious whether
13 it will be New York, New Jersey, or China.
14 Not the most obvious candidate for
15 preservation.

16 A couple of important things to mention
17 briefly, the net loss carrying provision.
18 This is another thing that States are
19 realizing that the economic developments are
20 really being met by this thing. For
21 example, one of the diminishing State-to-
22 State the losses and actually go back in
23 time and zero out the process in previous
24 years.

1 Obviously, if that's done right now,
2 that will dig the corporate hole for the
3 corporate tax collections. Hardly the sort
4 of things New York wants to do.

5 The last thing, specifically, I will
6 mention is the investment tax credit.
7 Unlike the other tax problems we've talked
8 about so far, this says Objectives: If you
9 do this thing, you could make a certain
10 amount of money. You could do this with
11 film tax credits. The problem that I have
12 here, is that there is simply no way to know
13 from an economic development perspective.
14 If you are encouraging jobs or rewarding
15 people for what they have already done, this
16 is not an exhaustive list.

17 Senator Krueger, you have already said
18 things to think about the tax review of
19 expenditures. I think that's a great idea.

20 One last point on taxes and the
21 Economic developments. More generally, the
22 folks who argue that there is an obvious and
23 negative link between high taxes and
24 corporate taxes or personal taxes and

1 economic growth, they are generally looking
2 at the one side of the pie. The folks who
3 do this universally tend to view that there
4 is no linkage between the economic
5 developments and there are recent statements
6 for that having to do with the quality of
7 school's, the quality of infrastructures to
8 make all the tension depend on to make the
9 work place viable.

10 I'll stop there.

11 SENATOR KRUEGER: We have also been
12 joined by my colleague Senator Michael
13 Ranzenhofer. When we opened, I made some
14 opening statements. Any questions?

15 SENATOR RANZENHOFER: Just that I'm
16 happy to be here and listen to different
17 perspectives of budget tax reform and I look
18 forward to hearing the testimony of the
19 people who will be here today.

20 SENATOR KRUEGER: I have some
21 questions. Maybe I will start and let my
22 other colleagues join in.

23 When you talked about the winners and
24 losers and single source, is there a way

1 that we could actually evaluate that
2 question? Are there tests that we might
3 apply to see if, in fact, the win is greater
4 than the loss or who is winning an who's
5 losing from this situation?

6 MR. GARDNER: The good news is the
7 Department of Taxation could certainly do
8 this.

9 The bad news is that this information
10 is generally not made public.

11 I can't think of any examples where
12 legislatures have worked in tandem with the
13 DOT and Department of Taxation have come up
14 with winners and losers, and I think it will
15 be the capacity of the DOT's. You could
16 tell which way the things are going to go.
17 You know in state companies are
18 disadvantaged. Manufacturers absolutely,
19 unequivocally going to see their taxes are
20 going down.

21 SENATOR KRUEGER: You talked about
22 the example of -- for basically setting up
23 fake, off-shore accounts. You used the
24 example of Florence in your testimony. Is

1 there a way for New York State to actually
2 address this issue individually or do we
3 need the Federal Government and is the
4 Federal Government planning to try to
5 successfully capture tax revenues from these
6 sort of offshore havens?

7 MR. GARDNER: Well, as I mentioned
8 there is a thing that States could do, it
9 won't solve the problem identified in my
10 testimony, where Walmart had a lot of stores
11 in Florence, Italy. For that I think you
12 need to rely on the information. The good
13 news, of course, is President Obama has
14 outlined plans for offshore reform. That
15 they are not perfect, but they do a pretty
16 good job as he has proposed testimony of
17 going right to the heart of these problems.
18 New York action is still going to be a
19 requirement but New York Legislative action
20 is still going to be a lot easier pending
21 successful enactments of what the President
22 has proposed.

23 SENATOR KRUEGER: Do you have any
24 questions?

1 SENATOR PERKINS: Do we know what
2 companies are benefiting from Single Sales
3 factor?

4 MR. GARDNER: Again, that's the
5 things that the Department of Taxation won't
6 specifically tell you. You all know the
7 landscape of the big manufacturers and the
8 state benefits better than I do. I can tell
9 you, that we have a report in 2005 that
10 looks at state corporate income taxes of
11 these big companies including 12 or so that
12 have headquarters in New York.

13 SENATOR PERKINS: You said 2005?

14 MR. GARDNER: Yes, one of them, I
15 think, was a manufacturer and I don't
16 remember which ones were paying no taxes
17 nationwide. That does not tell you they
18 were paying no corporate income taxes in New
19 York. The documents that these conditions
20 have to file with the New York State
21 Department of Taxation are not public. We
22 can't find out as private citizens how much
23 they paid to New York State.

24 There is a movement of a number of

1 States across the nation to allow law makers
2 and in some cases, the public to know not
3 only as you suggested what we're getting for
4 the job creation and Senate that have been
5 provided what that takes you for the
6 purposes of the given company. Are we given
7 so many credits away? That again, a
8 manufacturer is no way at all. This is
9 certainly something lawmakers ought to know.
10 We don't know this in New York. We
11 couldn't.

12 SENATOR PERKINS: Is this unique to
13 New York?

14 MR. GARDNER: The tax avoidance.

15 SENATOR PERKINS: This particular
16 aspect?

17 MR. GARDNER: Absolutely not. The
18 Single Sales Factor is a growing trend and
19 it's a good question because 20 years ago,
20 when Iowa did it. They were one of the
21 pioneers if you want to call the Single
22 Sales Factor. Their goals were good. Their
23 record in the past 24 years, they had
24 basically been treading water. They haven't

1 gainfully manufacturing but as more and more
2 States do this, the efficacy of this tax
3 insensitive will be essentially zero. You
4 will not encourage manufacturers to move
5 anywhere. It's sort of a nice metaphor with
6 a motion pictures when everybody gets it,
7 the only people getting anything are the
8 film companies, the State gets nothing for
9 it's money. I think that's where we're
10 heading to the point that we're giving away,
11 giving a lot away and not getting anything
12 for it.

13 SENATOR PERKINS: You are saying that
14 it's a growing phenomenon? How many States
15 do you think that might have something?

16 MR. GARDNER: Somewhere north of a
17 dozen numbers have the same sort of Single
18 Sales Factors for manufacturers that New
19 York State does a lot more than used to. I
20 don't remember the exact numbers on this.
21 It's only going in one direction just like
22 combined reporting is the single most
23 correctly, property tax reform. The Single
24 Sales Factor has unfortunately been the tool

1 of choice for these to dismantle the
2 corporate tax nationwide.

3 SENATOR PERKINS: Other than
4 yourself, is there some other critique of
5 this?

6 MR. GARDNER: Other than the ones
7 I've presented. As I mentioned, the fact
8 that it has contradictory impacts is the
9 only thing that I know about it.

10 SENATOR PERKINS: I mean for the
11 others that are criticizing this phenomenon.

12 MR. GARDNER: Absolutely. Any of the
13 multi-state groups that are interested in
14 speaking, sure that all corporate income tax
15 are taxed ones so that there is no other
16 income. They are all horrified about this.
17 When you have some States using the sales
18 factor and other taxing, sales and property,
19 that indicate the presence of the company in
20 the state, the outcome is that some
21 companies get around paying tax on their
22 company anywhere, anyone who is interested
23 sustainability funded government is going to
24 think this is horrible. There are other

1 groups in DC such as ours, and there are
2 other multi-governmental States who--it's a
3 bad idea too.

4 SENATOR KRUEGER: Actually, I have a
5 follow up on Bill's question. Could you
6 indicate why in some States businesses lobby
7 for a Single Sales Factor and in some States
8 they lobby against a Single Sales Factor?

9 MR. GARDNER: Sure. This will be an
10 oversimplified example.

11 Imagine that Ford has lobbied as they
12 did, for the Sales Factor in Michigan. They
13 wanted it and they got it. It makes sense
14 to them because they are selling relatively
15 little of their stuff in the State. All of
16 their payroll, all of their property and the
17 substantial part of it is in the State, the
18 headquarters are there.

19 The rule that says when the State's
20 divide up the tax states, a rule that says
21 pay only attention to the sales, is going to
22 give you only the tax advantage in Michigan.

23 This isn't true, but suppose they were
24 selling a gigantic sales of the cars in

1 Wisconsin or didn't have any payroll or
2 property there at all. They certainly
3 wouldn't want to do it there. This is
4 certainly, the Jiu Jitsu as you see other
5 companies doing. As loudly as they are
6 advocating the sales factor, is the only
7 fair thing to do. In States that they are
8 located, They are either silent or adamantly
9 against it. In States that won't benefit
10 from it. It's relatively, simple things.

11 SENATOR KRUEGER: Thank you. Michael
12 do you have any questions.

13 SENATOR RANZENHOFER: No.

14 SENATOR KRUEGER: Bill?

15 SENATOR PERKINS: No.

16 SENATOR KRUEGER: I thank you very
17 much. I know we cut you off. I appreciate
18 you coming up today to testify and we'll be
19 reviewing it all. So thank you very much.

20 Our next testifier is Michael Smith.
21 President of the New York State Banking
22 Association. And a constituent. So I have
23 to be very nice.

24 MICHAEL SMITH

1 President NYS Banking Association

2 MR. SMITH: Thank you Chairwoman
3 Krueger. I appreciate that. Good
4 afternoon.

5 My name is Michael Smith. I am the
6 President and CEO of the New York State
7 Bankers Association along with me is Bill
8 Boces, our Senior Vice President for
9 Legislation. And also a person on the staff
10 who works directly with the tax area.

11 First of all, how important it is that
12 you are doing this. And how much we applaud
13 that you are taking a look at all the
14 corporate taxes especially, in the Banking
15 sector is something that we've asked for a
16 long time. Just on the onset commenting on
17 the testimony.

18 The banking industry is taxed
19 separately. I will abbreviate my comments
20 otherwise you could hit the bell.

21 We have in our Bank's tax code which is
22 called Article 32. We have a three factor
23 formula reflected in the nature of our
24 business which is deposits and receipts and

1 employment which is an incentive's aspect of
2 our code.

3 Also, too, I was around, believe it or
4 not, in 1985 and went through the
5 negotiations with the State or the City for
6 the association during that period of time.
7 During that period of time where the tax was
8 rearmed and it was reformed to about two or
9 three years. And as you will see in the
10 testimony, the law has worked very well.
11 The problems is, when you start piecemealing
12 change and start making changes, possibly in
13 other areas, that place the industry in a
14 competitive disadvantage or intense members
15 of the community to leave the State of New
16 York. We are very much in favor of the
17 overall goals and that, by the way, was the
18 first point Governor Cuomo set up a special
19 room in 1984. Which is economic
20 developments and setting New York to be a
21 financial capital and to be the financial
22 capital and it is the financial capital
23 right now in the United States in New York
24 State and we want to keep it that way.

1 Almost, the second largest Banking
2 State in United States is North Carolina.
3 But the primary headquarters of Banks in the
4 United States, these are national and global
5 Banks is the city of New York and the State
6 of New York.

7 Our members are effectively the largest
8 private employers in New York State. Even
9 after as the Chairwoman noted the loss of
10 thousands of jobs during this current
11 recession the State's Commercial Banks and
12 threatens institutions and it's subsidiary
13 with offices typically called branches,
14 literally, in every City, Town and Village
15 of the State of New York. I believe it's
16 four or five thousand branches.

17 The unemployment banks are the most
18 important and reliable source of funding and
19 housing, small business, and consumer
20 purchases and other types of funding which
21 New Yorkers have come to rely on as other
22 lenders, non-bankers. That's one of the
23 issues that we have to confront everyday.
24 There is a clear distinction between Banks

1 and other lenders.

2 Unfortunately, everyone has been termed
3 a Banks today as other lenders have pulled
4 away. Banks have continued to lend the
5 Federal Deposit insurance corporations,
6 shows that a total lending increased
7 actually, from 2007 to 2008. By ten billion
8 dollars. Also the Treasury Department
9 released on Monday, for March, 2009 lending
10 by all depository Institutions are mentioned
11 showing that loans to consumers held on
12 Bank's balance in three categories, he
13 mortgages, home equity lines of credit, and
14 other consumer loans, all increased in
15 March.

16 The nature of the category in terms of
17 the fall off has been the so-called
18 "markets" non-bank area. And that is the
19 loss of that market where those originators
20 sell those loans immediately through the
21 secondary market. And in addition to
22 employment and lending, New York Banks are
23 major contributors to the community, to
24 investments, State obligations through

1 charitable work and by releasing at the time
2 of their employees, by the Officers and
3 Director to the community leadership. To
4 make and improve the economic climate of New
5 York. Most importantly that has been
6 through the literacies and financial
7 efforts. Most of our Associates and which
8 is a major supporter of the financial
9 literacy which is in New York and in the
10 Northeast has programs making sure that what
11 we have gone through over the last six
12 months specifically never happens again.

13 During the third and fourth quarters of
14 2008 New York Banks collectively experienced
15 one of the most severe financial setbacks in
16 it's history. Not one New York based
17 Institution failed and surprisingly as a
18 reduced amount of taxes paid to the New York
19 State, the review submitted to the Banks tax
20 code actually increased.

21 Between 2007 and 2008, the industry
22 paid \$8 million dollars in article two and
23 the Department reported that New York banks
24 paid a little over \$1 billion dollars for

1 2008 to 2009. Increased a little more than
2 31 percent of the State's budgets,
3 protections. By any measure, the New York
4 State budgets, since the enactments of the
5 total corporate tax is reported. By the
6 Department of Finance increased from a share
7 of 5 percent to almost 16 percent today.
8 And doubled that by the New York City
9 Banking Institutions.

10 As you all know, New York City has a
11 franchised tax. Today, banks, again, pay
12 over three times the percentage that they
13 paid back in 1985. In addition, banks
14 employed in 2006, approximately, 4 percent
15 of private, not foreign employees in New
16 York, and produced 5.7 percent of the
17 State's Domestic product. This is clear
18 that the State's Banking is more than
19 appropriate.

20 Consider the other tax payouts that the
21 banks pay. Payroll taxes, property taxes,
22 and as you know, the fiscally plans heavy
23 property tax, sales and use tax. New York
24 City corporate income taxes, the MTA

1 surcharge, and the New York City commercial
2 tax, the total of all these payments to the
3 State of New York exceeds \$5 million
4 dollars.

5 The banks tax has a number of
6 provisions that distinguish from a number of
7 taxes which I noted at the beginning, like
8 the complexity our tax laws reflect that the
9 industry and with reflect to that industry,
10 the industry is complied of local community
11 Banks and Thrifts. And recent holding
12 companies and large national global Banks.
13 The banks tax includes incentives and
14 revenue adjusting formulas to stimulate and
15 assist small business and have corporate
16 headquarters in New York.

17 As the 1985 acts stated it is also
18 intended to maintain New York City as a
19 financial center. For example, as a key
20 element to institute credits in the credit
21 markets and protect the portfolio's. The
22 interest in the dividends is in the tax
23 code. Wage factor formula which was divided
24 for some time.

1 Right now, I want to note and highlight
2 because I have two minutes in terms of my
3 presentation. I just want to say and
4 emphasize how important it is that we look
5 at change comprehensibly.

6 That we are in total support of Article
7 32 and the Tax Department has put together
8 to look at 32 and 9A, and we are working
9 with the Department at this project. And
10 what I said is what we do oppose is
11 piecemeal change. And it's much like
12 pulling the thread on the sweater. Either
13 the sweater will fall apart and also some
14 entities are disadvantaged more than others.

15 We should maintain and set a broad goal
16 of financially maintaining New York as a
17 financial capital. We will strongly resist
18 any piecemeal loss reductions or incentives,
19 with a total overall look at the bank tax
20 code and the corporate tax code. And as I
21 noted in my testimony, and I noted the
22 several changes that we're particularly
23 looking at today and also New York City does
24 not have the NLL. Which is in New York

1 State. We are supportive of that being
2 provided, that the city code informed to the
3 State.

4 I think that in the interest of time, I
5 would say that there were a number of
6 industries within our industry with one is
7 the trust industries and with the State of
8 New York has been incentive in terms of
9 moving jobs, we take these trusts and move
10 them across the river or the country. And
11 with that goes legal jobs, accounting jobs
12 and investment management jobs. And are so
13 supportive of looking will ask that you look
14 at it. Also. With that I will turn my time
15 back to you Madam Chairwoman.

16 SENATOR KRUEGER: Thank you very
17 much. One thing that you didn't mention in
18 your testimony. There is a group of
19 businesses with the support of New York City
20 are coming to the State and asking for what
21 they call a conformity package of taxes for
22 New York City. Have you taken a look at
23 that as it relates to the banking industry?

24 MR. SMITH: Yes, we're aware of a

1 proposal that is out there. We oppose in
2 this particular instance in the tax code any
3 conforming in terms of two provisions. The
4 reading provision, as I said before going
5 back several years now, there was a change
6 made in the tax code for banks where certain
7 institutions were eliminated. The City did
8 not conform. We opposed the stated
9 legislation on that instance, and Secondly,
10 we also opposed legislation that dealt with
11 the so-called credit card nexus issue, and
12 by conforming as it is proposed in these
13 drafts conforming effectively with the tax
14 increase in the banks. And we believe that
15 those particular initiatives should be in
16 the context of the overall look of the bank
17 tax code. Again, we will consider that as
18 piecemealing, effectively the tax of the
19 banking industry and we're opposed with the
20 two provisions that deal with the area.

21 As I note that the testimony, we do
22 support the NOL. That is a carry forward
23 piece and it's not a carry back. And we do
24 support that, however, we think that if we

1 are going to look at any further portion of
2 the code that was passed in 1984. And that
3 means that you have to look at the rates,
4 and other types of deductions.

5 SENATOR KRUEGER: You did reference
6 in your testimony, the trust moving out of
7 New York State and just for me to clarify
8 that was because you believe that there was
9 something in City Tax policy that
10 disadvantages business from staying there?

11 MR. SMITH: All right. Prevail of
12 the State of New York and as a disincentive
13 because starting about when the law was
14 changed in 1985, it's reflecting Interstate
15 Banking and Global Banking and we moved away
16 from a separate source accounting and we
17 went to a more holistic approach and the
18 separate thing is the thinking that the
19 Industry was just going to stay here.

20 However, there were other Institutions
21 that were well known throughout the United
22 States, whether they will be Florida,
23 Delaware, or South Dakota, etcetera and we
24 think that the law should be changed to

1 in-cent this trust business to the State of
2 New York and a lot of this business, by the
3 way, is Downtown because that's where the
4 legal and accounting communities are and we
5 would look forward to working with you as
6 and ways that will reflect the economic
7 situation in the State of New York.

8 We think that this is a way that you
9 coinsure more jobs being created and to
10 create revenue around the world.

11 SENATOR PERKINS: Let me ask you a
12 simple-minded, sinical question.
13 Corporations never seem to be making money
14 but seem to be making money. You are saying
15 that they shouldn't be paying taxes where
16 they are losing money. Do you understand
17 what you are saying?

18 MR. SMITH: I know exactly what you
19 are saying. I'm glad that you are raising
20 this question because under New York Stated
21 taxes, there is a minimum tax and I had to
22 skip over that point because we ran out of
23 time, but it's in my written testimony. You
24 have to pay tax. You don't just not pay

1 tax, it's a memo tax. Under the New York
2 State Tax Code there is a formula that takes
3 place. One of the Alternative is a tax on
4 assets. And this is a tax that's opposed,
5 whether you are making money or not. So
6 they asked to be paid. So effectively, you
7 could pay while you are losing money. As we
8 pointed out in your testimony, we feel and
9 if you go back to 1984 because of one of the
10 perceptions in 1985 was revenue neutrality.
11 So nobody could get--we were trying to
12 disrupt the fiscal situation in the State.
13 But if you go back, not only has the law
14 worked, but number two, The State has
15 actually benefited from more revenue and we
16 would attribute that to the fact that jobs
17 were developed. Did that help?

18 SENATOR PERKINS: I guess it gets
19 close to it. The corporations have an
20 ability to show that they are not making
21 money. And, therefore, should not be taxed.
22 Ever hear that even though they seem to be
23 making money, big salaries, growing salaries
24 and no profits. Somehow or another, it

1 always, balances out to negative. Is that a
2 phenomenon that you have ever heard of
3 before and how do you deal with that sort of
4 thing?

5 MR. SMITH: Specifically as it
6 relates to the Banks and that sector, we're
7 different than the other forms of the
8 businesses and that's why today we have a
9 separate article. Banks are physically
10 present in New York because you can conduct
11 business as was noted and not a fiscal
12 presence. You can sell through the internet
13 and I know that that's an issue that is
14 being debated all over the country. The
15 fact of the matter is the physical presence
16 of the bank and the nature of the business,
17 typically puts it dead on in terms of having
18 to be subject to the New York State tax code
19 and in our industry, even if you are losing
20 money, you have to pay a minimum tax as it
21 relates to personal income tax, a lot of the
22 State Income Tax laws other than the rate
23 are triggered by the Federal law. And I
24 know this is a constitutional debate. We

1 would urge and argue that the banking
2 industry is paying more than it's fair
3 share.

4 SENATOR KRUEGER: Do you have any
5 questions?

6 SENATOR RANZENHOFER: The question
7 that I have is are there any tax policies
8 that will give you a competitive
9 disadvantage with respect to Credit Unions?

10 MR. SMITH: Yes, particularly, the
11 Credit Unions historically charter purpose
12 which we do not dispute or set up and I mean
13 what was called a common bond for specific
14 protections or specific areas and over the
15 years and in this industry and various areas
16 in the United States, have become major
17 competitors in the banking industry. The
18 statement here is that Credit Unions do not
19 pay income taxes. They are exempt under
20 Federal Law. There is a huge competitive
21 advantage if you are competing in the same
22 business and there is legislation in the New
23 York State Senate and public policy that
24 would grant a policy in the banking

1 authority and oppositions.

2 SENATOR RANZENHOFER: I'm sorry. I
3 didn't hear what you are saying.

4 MR. SMITH: Credit Unions seeking
5 public depositing authority. That has
6 exclusively in the Banking and these are
7 taxpayer dollars and the Banks do pay taxes.
8 And this will remain exclusive to the
9 Banking industry and that will be out of
10 fairness.

11 SENATOR RANZENHOFER: Thank you.

12 SENATOR KRUEGER: All right. Thank
13 you very much for your testimony today. I
14 appreciate it.

15 Our next testifier is James Parrott.
16 Chief Economist Fiscal Policy Institute.
17 Good afternoon, James.

18 JAMES PARROTT
19 Chief Economist Fiscal Policy Institute

20 MR. PARROTT: Good afternoon. Thank
21 you for having this hearing and inviting me
22 to testify.

23 I think that it's long overdue for New
24 York State to begin taking--we can't

1 accomplish this whole thing in one hearing.
2 Begin, taking a closer look at the evolution
3 of New York tax policy in it's relationship
4 to economic growth.

5 I think it's particularly overdue to
6 look more closely at various economic
7 developments, tax expenditures provisions
8 that have been put in places lot of the
9 state level, but local governments.

10 New York City and Governments and CPA's
11 have been doing that. That's a system
12 that's been growing over the years and at
13 this point, is very costly to New York State
14 and results in questionable benefits.

15 Given that the subject of this hearing
16 deals with the relationship of the tax
17 structure to economic growth. I would urge
18 caution in avoiding New York completely. My
19 concerns about New York high tax burden.
20 Too often, this is specifically equated with
21 the cost of business and moreover a cost
22 that is not associated with the production
23 of goods and services. This of course,
24 ignores what taxes go to pay for in terms of

1 helping provide to a higher education
2 system, the quality of work force and
3 services to the public to sustain high value
4 production.

5 Too often commentators invoke a command
6 interest that taxes are too high. Without
7 record to the investment or human capital.
8 Or public services that the taxes make
9 possible. Also, analysis for business does
10 or business climate measures. Failing to
11 look at the value of protection that a given
12 set of costs make possible.

13 For example, one of the measures
14 off-cited by the Business Counsel of New
15 York, is the Bank and Institute cost of
16 doing business index. In their 2007 index,
17 New York ranked second highest cost of doing
18 business. However, this is largely based on
19 New York's highest wages. They are the
20 second highest in the country and highest
21 office rates and they are the highest in all
22 50 states. What does this tell us? New
23 York's wages are high because the skills are
24 high and the productivity of our work

1 accounts are very high and the offices are
2 high. From the dense concentration of
3 activity in New York City to be meaningful
4 costs should be related to the production,
5 that high costs remain possible.

6 It's important that using the data from
7 2007, New York has the highest value per
8 worker among the large States with diverse
9 economies and depending on how measured the
10 average worker is 15 to 20 percent more
11 productive than the national averages. In
12 14 of 18 major sectors in the economy, New
13 York is the second largest in the states.
14 In salaried worker taxes may be higher in
15 New York but the value of production per
16 worker is unparalleled in terms of what is
17 produced in New York, relative to other
18 places.

19 Sometimes, the analysts rely on the
20 crowd indicators or various climate rankings
21 rather than how the typical businesses are
22 effective by the New York State and local
23 taxes. And, for example, it's a report,
24 that is the beginning from the incoming

1 Spitzer administration Management consulting
2 firm A.T. Carney cites New York State and
3 local tax burden as the first item under
4 quote "Exorbitant costs of doing business."
5 Yet, in a study for the Citizen's Budget
6 Commission conveyed of the Rockefeller
7 Institute. Found that while businesses
8 operated in New York City, had a higher
9 effect than like businesses in six other
10 neighboring in competing States. Businesses
11 operating upstate had the lowest tax burden
12 compared to large cities and the six other
13 large states considered. California,
14 Connecticut, Massachusetts, New Jersey,
15 Texas which study factor in sales taxes on
16 businesses purchases and property taxes,
17 unemployment insurance taxes and the Federal
18 Corporate income tax, and the defective of
19 the State and local taxes, and he similarly
20 compared the rates of return for 11
21 industries.

22 Too often like many other states we
23 have succumb to the human cry for the
24 business incentives and created a plethora

1 of tax incentives insensibly to obtain the
2 businesses.

3 In 2007, the State spent roughly three
4 point seven million dollars in the event of
5 economic developments. And when you add
6 local property, another tax break. The
7 total easily exceeds \$4 billion dollars
8 annually. And then there is New York City,
9 which alone expends \$1.7 billion dollars in
10 local tax breaks for Economic developments.
11 Under the industrial and commercial
12 insensitive programs and other programs.

13 So statewide, the tax expenditure total
14 is in the \$6 million dollars ballpark. And
15 we have also subsidized those and those are
16 not included in the tax expenditure program.
17 And when the taxes is expenditures such as
18 in the Carney analysis, the Empire Zone
19 programs, the audits of IDA program by the
20 State Comptroller office. Or 2007 analysis
21 of the industrial and commercial incentive
22 program, the taxpayers are certainly
23 justified of whether public officials are
24 prudent managers of the public resources.

1 I want to focus on three aspects of the
2 business tax policy. The first one I want
3 to address is the Single Sales Factor. I
4 think that Matt Gardner covered that
5 exceptionally well and I would want to
6 associated myself with his prospective on
7 that. We, of course, didn't support when in
8 2005, the State adopted the Single Sales
9 Factor as the proportion method. And would
10 urge that it's particularly unwise without a
11 throw back or a throw out rule to try to
12 address nowhere income.

13 Let me talk about the State's
14 investment tax credit for a minute. The
15 State's investment tax credit is so
16 generous, that many large corporations pay
17 only a nominal amount. Routinely, only a
18 large amount of companies could use a
19 portion of the New York State but they are
20 allowed to carry forward unused credits for
21 7 to 10 years. For 2005. Was \$1.4 billion
22 dollars. This means that large companies
23 could stop reinvesting in New York all
24 together and will still be able to reduce

1 the tax line for the minimum or close to it
2 for another decade. The ITC could be
3 changed to reduced payment of credits
4 provided without any required for job
5 retention and increase the amounts of
6 credits that could be earned through job
7 creation and retentions.

8 For example, the five percent ITC,
9 could be reduced to job growth and along
10 with the increase, the value of the
11 employment incentive credit for five years.
12 With the credit directly, ridged to job
13 recreation and the enhanced employment,
14 would place the ability to carry forward ITC
15 credits independent employment levels.

16 Finally, we talk about the
17 unincorporated business tax theory. I know
18 that you want it. The focus to be on the
19 corporate franchise tax. But I think that
20 the area of the unincorporated business tax.
21 Typically, the people tend to think that the
22 business is dominated by the small
23 businesses and self employment and fledgling
24 partnerships. Numerically it might be the

1 case. But in New York State there are
2 substantial increase which does suspension
3 receipts and business income and in New York
4 City which does tax the business income of
5 the businesses, limited liability companies
6 and limited liability partnerships paid 800
7 million Dollars In taxes of 2005. And
8 nearly 3/4 of the tax liability and merely
9 an amount under the city's general
10 corporation tax.

11 I made three recommendations in this
12 regard. One, is that the State should
13 consider increasing the filing fees for
14 large LLC 's and other partnership entities
15 in 2003. The maximum filings fee was 5,000
16 to ten thousand dollars. Initially
17 authorized for two years, and then extended
18 for 2 more years. But then it reversed to
19 the previous maximum in 2007. During this
20 time, the fee collections increased by about
21 \$50 million dollars a year.

22 In 2008, the minimum was lowered with
23 the basis for this filing fee was changed.
24 The minimum was lowered to \$500. One

1 possibility will be to consider restoring
2 the 25 thousand dollars maximum. Secondly,
3 in the Governor's 2010 executive budget
4 proposals. He proposed to expand the income
5 tax report from income from the hedge fund
6 revivability. The revenue was impacted at
7 \$60 million dollars a year. This was not
8 included in an active budget, but it should
9 be considered. As the Governor's proposals
10 explained. Currently, only a small portion
11 is the tax as compensation with the
12 responsory deep capital gains. This is in
13 the treatment for residents and
14 nonresidents.

15 Finally, let me close that this is not
16 the issue of a State tax legislation and
17 this pertains to the crime and the extent of
18 the carried interest under the City's
19 unincorporated business tax, that there is
20 now, an exception for that.

21 The private equity and hedge funds
22 which account for a showing share and
23 financial activity, are not paying any city
24 business income tax. Only the cash interest

1 and the State could change this and this
2 would have the effect of raising \$50
3 thousand dollars or more in New York City.
4 It's very hard to estimate what that would
5 generate and finally is at a time, where the
6 Mayor is proposing to increase the sales tax
7 of New York State in New York City and
8 eliminating the sales tax for clothing, both
9 of these are extremely regressive. Low and
10 moderate income people will effectively pay
11 double. And limiting the carried interest
12 on the UBT, unincorporated business tax.
13 Would be a way to offset the second
14 proposal. Thank you.

15 SENATOR KRUEGER: Thank you. When we
16 held our hearing up in Rochester, Upstate
17 there is more manufacturing that we have up
18 here in the City. And one of the reasons
19 that we changed the theme of our hearing
20 today to be on Bank Tax and Business Tax was
21 the recognition was that manufacturing is
22 not a large issue in New York City because
23 we have lost so much of the it over the
24 decades.

1 You referenced the one unused tax
2 credits. And the idea of switching them to
3 the job creation tax credit. I know that we
4 had the manufacturing association and some
5 upstate business representative who also
6 talked about the frustration that it
7 appeared that small businesses in New York
8 State who technically are usually the
9 greater job creating entities in our economy
10 didn't really see the business tax model in
11 New York State as being very fair to them or
12 being available to them. Do you think that
13 your actual suggestion to shift the unused
14 credits of the job creation tax credit
15 model. Will in fact, benefit. But programs
16 more likely benefit smaller businesses?

17 MR. PARROTT: It very well could.
18 The devil is in the detail in terms of how
19 it's structures, but it is something that
20 should certainly be looked at.

21 As I indicated when you add up the
22 various levels of the tax expenditures in
23 this committee. It's \$6 million dollars
24 plus. And I don't think that anyone would

1 justify that on the ground that we are
2 getting something for the value. I think
3 that it's well past time and we need to look
4 past that. Not only job retentions, but to
5 the creation and retentions of good jobs,
6 and including job standard and economic
7 developments tax expenditures is something
8 that a lot of other states have made a lot
9 of progress on and New York State should
10 catch up on that.

11 SENATOR KRUEGER: And I asked the
12 previous testifier whether he had any
13 opinion about the city tax changes I get to
14 be approved by the State have you had a
15 chance to look at that the proposal?

16 MR. SMITH: I have heard about the
17 general concept of that. And I know that
18 there have been discussions in the finances
19 of New York City for several years now, and
20 the staff there has cataloged the ways of
21 New York City as tax structures of the State
22 and so on. And if there is a commitment
23 from the getgo to do that in a relevant
24 neutral way. There are obviously winners

1 and losers in that. We know that various
2 bits groups like the Bank's Associates will
3 watch that very carefully as they should.

4 If that could be done in a way that
5 gives us a more streamlined harmonized tax
6 structure and yet don't sacrifice the
7 revenues, for public services then that's
8 something that should be explored. Of
9 course, we would also like to see it look
10 into the context that we could use the
11 changes to promote the kind of commitment
12 that creates a better sustaining jobs in New
13 York so we would seek to look for ways to
14 insert that into the discussions as well.

15 SENATOR KRUEGER: Any questions?

16 SENATOR RANZENHOFER: Could you just
17 elaborate on the last point? What do you
18 mean by that?

19 MR. SMITH: About how to insert wage
20 standard? Well, this is on the tax
21 expenditures side. Which could be on the
22 discussion about more for reaching the
23 changes in city taxes to have them perform
24 with state taxes.

1 The City spends a lot in the name of
2 economic development and provides various
3 tax incentives and I think that we need to
4 take a whole-sale look at that, in terms of
5 how we could promote the creation of the
6 better paying jobs and the jobs that
7 benefits. And right now, the City doesn't
8 require anything except reporting on the
9 wages of jobs retained or rotated by firms
10 that receive industrial developments bonding
11 assistance. Mike.

12 SENATOR RANZENHOFER: Thank you.

13 SENATOR PERKINS: So when you take a
14 project like Adelin Teck yards. The City is
15 pretty involved in that. Is that conforming
16 to what you are suggesting that the City
17 should be doing that or something that does
18 not conform to that?

19 MR. SMITH: Well, as you know that is
20 a very broad lagging projects. That
21 involves a lot of infrastructures in that.
22 There is the opportunity hopefully that
23 still exists for the creation of a lot of
24 housing including affordable housing in

1 that. I haven't followed. Early on, we did
2 some work on that. I haven't followed the
3 twists and turns in recent years from that.
4 I am not sure where things stand at this
5 point.

6 I think that there were at least
7 commitments that some of the construction
8 jobs that were being created will benefit
9 the community residents that the pay and win
10 fits that went along with those would be-- I
11 don't know that they are quite up to union
12 levels that would be better than often times
13 what you see in projects that are heavily
14 subsidized you like the affordable housing
15 sector.

16 We did a report a couple of years ago
17 that did an affordable housing which is a
18 market that does exist, in terms of the City
19 and other government subsidy level in New
20 York City and we concluded as much as 15
21 percent of the work force in the
22 construction housing sector either
23 misclassified beings as independent
24 contractors where their company status,

1 where the people have to pay their own
2 payroll taxes and health insurance and so
3 on, and they are not covered by workers comp
4 and public insurance or they are paid off
5 the books entirely. That's an area in the
6 City where the City could help the low end
7 of the Labor market by linking it's
8 commitments to provide funding to poor
9 quality employment standard.

10 SENATOR PERKINS: Thank you. I will
11 like to follow up at another time on this
12 specifically because of some work that we'll
13 be doing.

14 SENATOR KRUEGER: Is there a Bernard
15 Wyndham? Somebody dropped their wallet.

16 Thank you very much. I appreciate your
17 testimony today.

18 SENATOR PERKINS: Thank you.

19 SENATOR KRUEGER: Our next speaker is
20 Pat Fleenor. Chief Economist of the tax
21 foundation. All right. Good afternoon.

22 PATRICK FLEENOR

23 Chief Economist

24 MR. FLEENOR: My name is Patrick

1 Fleenor. Chief Economist. It's an honor to
2 appear before you folks this afternoon.

3 When discussing business tax reforms,
4 it's seems that it's appropriate to first
5 ask what's the goal. What do we want? Many
6 would respond that we want firms efficiently
7 organized to produce goods and costs that
8 this are to ensure that New York businesses
9 are nationally competitive.

10 We also want those goods and services
11 that New York is uniquely capable to
12 produce. These could produce calls and
13 force organizations themselves in two basic
14 ways.

15 As entities which the operators and
16 managers could pay or as corporations that
17 pay an entity level tax and then properties
18 to the owners, via taxable dividends and
19 capital gains. There is advantages or
20 disadvantages to both of these forms. There
21 are sole partnerships. There is limited
22 liability corporations. There is S-Corps in
23 all of testimony, they manage the firms and
24 they have very important, incentives, their

1 ability to raise capital is limited.

2 This is where the Corporation comes
3 into effect. And the corporation is the
4 slip side of that. The operators rarely
5 manage the day to day operations of the
6 firms. The advantage of the corporation is
7 that they could race on normal matters of
8 capacity. It's a known facts.

9 In the absence of the competition of
10 the market place, produce of financial
11 structure affirmed for a given situation.
12 And some industries are dominated by sole
13 proprietorship and safe for corporations and
14 often a firm structure will lose efficiency
15 and aid in making firms of both nationally
16 and independently competitively tax distort
17 this firm structure non-state has not
18 indicated this Corporate reform ticket.
19 This enrages some firms that would organize
20 as some organizations to organize as
21 noncorporate reforms.

22 Simply, this will be the small business
23 expenses, the small businesses rather than
24 take on the most efforts. All such

1 provisions and firm structures should be
2 limited. In short, I think that a major
3 goal. A policy, maker should be the taxes
4 mutual. The basis will be to take on the
5 form which is the most economic and allow
6 them to be competitive nationally and
7 internationally.

8 This seems to be the second point. New
9 York State has documents. New York State
10 and has the ability to compete in the
11 various sectors. I think that one of the
12 problems, is that the policy makers they try
13 to be competitive in that the State is not
14 necessarily good at it. How do we know what
15 the State is good at? You have to allow the
16 market to decide. And when the policy is
17 trying to intervene and subsidize that
18 industry and 3, they picked the wrong firm
19 to subsidize. And again I think that you
20 have to rely on the marketplace to do that.

21 Once again, taxes could distort this
22 progress. A major problem. Is that some
23 pay high effective tax rates. My prior
24 disputers brought this out. Some firms

1 basically sever reform to the tax system and
2 others are given privilege raises. And
3 where the State has a competitive advantage
4 and into those which are tax favored. This
5 makes the terms both nationally and the
6 living standard on hold.

7 The reason -- -- the solution of this
8 problem is trying to make the effective tax
9 rates. The same all industries. The goal
10 of policymakers seems to me to eliminate the
11 tax breaks and work on making the effective
12 tax breaks constant across all industries.
13 Things like the film credit which other
14 things have brought that up. Which ends up
15 lowering effective rates there. Again, the
16 tax policy seems to be neutral across all
17 industries. I'm not naive and I know the
18 policy of prospective tax breaks. If
19 businesses come to you, and you are asked to
20 map them. How do you respond to that? My
21 discussion would be, you respond by telling
22 firms we're going to make New York
23 competitive by eliminating all these types
24 of breaks. We're going to work on making

1 effective rates amongst the form the same,
2 and across the industry the same. And that
3 will give us the broad tax base and be able
4 to apply the low rates and it seems that
5 that's the best course that New York State
6 could follow in the long run.

7 SENATOR KRUEGER: Thank you. In my
8 opening statement, I talked about the range
9 wars of fact of our tax policies. And
10 basically, you just made the argument, stop
11 the range wars! Have an equal tax policy
12 for all and I think that I would agree that
13 we would see lower taxes as the maximum
14 rates.

15 I have also said in response to the
16 Empire zones model and I feed an Empire zone
17 here, here over here. I need to shift the
18 geographic design of the Empire zone. I
19 need to move it as with regards to last year
20 and it would certainly make it less
21 complicated and you raised the point also.

22 I guess my challenge is the dilemma
23 that New York and so many other States find
24 themselves in. We've gone down this road.

1 We are in constant competition.

2 You've referenced the film tax credit
3 and somebody will be testifying from that
4 industry and we have, for example,
5 California, competing very aggressively to
6 make sure that no film production got done
7 here. When in fact, there is a lot of job
8 creations and TV and advertising production.
9 If we said no would we lose everybody to
10 California. How do you stop one state at a
11 time? It is a country set up with a
12 national tax policy and 50 different States
13 competing. I appreciate that position you
14 are in. In order to give them a tax
15 presence, you have to raise taxes on
16 everybody else. And that drives up taxes as
17 well. It's the deaconry of the seen and
18 unseen. When you give tax breaks to the
19 films, for example, you may loose all of the
20 merits of moving. I read it again. I
21 understand the politics of the situation, I
22 don't see that as a negative of no tax rates
23 and in the long time, that is not conducive
24 of economic growth.

1 You also mentioned in the Tax Policy
2 that we have different policies for
3 different types and policies, that they are
4 motivated not to be because they are trying
5 to fit in to our boxes and you said that
6 perhaps businesses are trying to fit small
7 businesses when that wouldn't be efficient,
8 what I hear is that they think our tax
9 policies in New York are not favorable to
10 them, in fact, just the opposite.

11 Could you give me an example of how
12 they are setting themselves up in small
13 businesses?

14 MR. FLEENOR: I bring up the
15 testimony. There is a credit for small
16 businesses. Again, why do we support small
17 businesses verses large businesses? Don't
18 we want products that are inexpensive.
19 Don't we want work places? What is so
20 virtuous about a small business and what is
21 so virtuous about a large business? The
22 different businesses are doing different
23 things. And it seems to sort these markets
24 out and have an efficient economy, not one

1 that favors a corporation, tax policy and
2 government policy in general should be
3 neutral testimony shouldn't favor one firm
4 size or the other. And it shouldn't favor
5 one firm size or the other and the tax
6 policy in general should be neutral.

7 I mean especially something about the
8 firm structure, small companies simply
9 cannot produce cars, for example, like cars
10 are highly complex that requires a large
11 amount of research. We're going to promote
12 small businesses. In many situations, it's
13 just not going to work well.

14 SENATOR KRUEGER: Some argue, I think
15 I argue that tax policy be used to
16 incentivize quote unquote buyer behavior,
17 versus worse behavior. So, for example, on
18 environmental policy, do you agree or
19 disagree that we should use tax policy to
20 incentivize better environmental policy by
21 corporations or to provide tax insensitive
22 to encourage companies to retool which may
23 cost them money but the outcome is that we
24 get a better pollution rate from the

1 production of A, B and C.

2 MR. FLEENOR: I would think that when
3 economists cost and pollution in that
4 society and an excise tax should be levied
5 to control that pollution. The advantage of
6 that is that it allows the firm to negate
7 the pollution. We're going to retool the
8 factory.

9 I mean policy makers don't really know
10 the most effective way of redoing the
11 factory is. Removing the policy. They just
12 know that they want the preliminary
13 eliminated. We want to reduce the pollution
14 to these levels and allow the market place
15 to come up with efficient ways of doing
16 that. That would be to my general take on
17 the environmental. I know that there are
18 green buildings and things like that. I
19 mean, the problem with those policies is say
20 you want to get rid of CO2 and you have a
21 million dollars to spend. Is it creating,
22 installing some small inexpensive part on a
23 car or something?

24 Again, I think that those are better

1 ways to go and they are less expensive ways
2 to go. They take advantage of the market
3 place in solving the problems. The over all
4 theme, the government suddenly set broad
5 parameters and allow the ingenuity of
6 private people to solve those problems.

7 SENATOR KRUEGER: Michael, do you
8 have any questions?

9 SENATOR RANZENHOFER: Question, a
10 couple of questions to if you did not
11 advance a company to be more
12 environmental-friendly and you just left it
13 to the company to do it, how would that
14 actually take place? Why would they do it?

15 MR. FLEENOR: I don't really
16 understand your question. You have a set
17 level of pollution right?

18 SENATOR RANZENHOFER: Right.

19 MR. FLEENOR: And the company that is
20 doing the pollution, You will levy a tax on
21 every unit that the firm emits. You have
22 two options: You could pay the taxes or we
23 could reduce the pollution. You keep
24 raising the tax until you limit the

1 pollution and the problems go away.

2 SENATOR RANZENHOFER: Won't the
3 company go away also?

4 MR. FLEENOR: In some cases, it might
5 be a good thing. If the costs to society
6 are greater than it's benefits, then it
7 makes sense to kill the company.

8 SENATOR RANZENHOFER: The second
9 question I had is with respect to the
10 economic developments. What level of
11 reduction of tax will be necessary to get
12 rid of Empire Zones IDE's. If you were not
13 going to have that type of treatment, what
14 type of level do you need?

15 MR. FLEENOR: As I mentioned my
16 testimony unfortunately, I'm pinch-hitting
17 for the fellow who usually does these. It's
18 a fairly relevant calculation. We could
19 regulate these tax expenditures and it will
20 give us this amount of revenue. How much
21 will we reduce the tax rate by? If the base
22 expands by say 50 percent, you could reduce
23 rates by 50 percent. It's a fairly easy
24 calculation. Unfortunately, I didn't have

1 the time to do a thorough analysis of New
2 York State. Again, your review estimates
3 this is a common thing to do. Right? But
4 it seems that that's the policy that we
5 should pursue is the policy of just
6 generalist.

7 SENATOR KRUEGER: I have one more
8 question.

9 Government makes judgment. And I agree
10 with you that we're not good at actually
11 directing the market and the market is
12 better for itself. But we do have
13 priorities. For example, I will not speak
14 for Michael, I will only speak for myself.
15 We think creating jobs is good. That's a
16 winning success for the State of New York,
17 if we have people, we want them to have
18 jobs. We want them to, in fact, become
19 taxpayers and build our businesses,
20 etcetera, etcetera. Is there a place for
21 evaluating what are sometimes called "throw
22 back or throw outs" in any sort of tax
23 policy that you would buy?

24 MR. FLEENOR: If you wanted to create

1 jobs, it will be simple. Eliminate farm
2 machinery. Everyone will be working.
3 Because we're going to be back to a
4 pre-existing condition.

5 That's not what we want. We want
6 productivity. We want our society to run
7 efficiently. We want to better educate
8 people. We want to have more efficient
9 planting equipment. And I think that the
10 way to achieve that objective is not through
11 a piecemeal. It's to have a system where
12 the tax space is very broad and the rates
13 are very low. And the question of
14 government in a sense is kind of easy, what
15 do you want government to do and how much
16 does it cost? So you come up with a figure.
17 How could you extract that amount from the
18 society at the least cost. And I think that
19 in general, the way of doing that is a
20 system of a broad tax rate with a low rate,
21 minimizes distortion in the economy. So I
22 think that's the policy. Or in an
23 objective, I understand certain political
24 problems that come up. I'm not naive. That

1 should be the guided philosophy.

2 SENATOR KRUEGER: Can I ask where you
3 got your degree in Economics?

4 MR. FLEENOR: George Mason.

5 SENATOR KRUEGER: I went in Chicago.
6 That's why I asked. I used to fight with
7 them too there. They had big vocabularies.
8 Thank you so much for testifying today. I
9 really appreciate.

10 MR. FLEENOR: Thank you, Senator.

11 SENATOR KRUEGER: Thank you. Our
12 next testifier is Nathan Newman. Policy
13 director of the Progressive States Network
14 Tax Section.

15 NATHAN NEWMAN

16 Policy Director

17 Progressive States Network Tax Section

18 MR. NEWMAN: Thank you very much for
19 having me.

20 SENATOR KRUEGER: Thank you for
21 coming.

22 MR. NEWMAN: Since I know that you
23 will have people to have particular tax
24 rates. And I want to concentrate on a

1 particular point. That reasonable revenues
2 increases are far better than budget cuts.
3 There are ideal local of proponents other
4 funds right now. When they most need it in
5 order to balance budget.

6 The Wall Street Journal tend to refer
7 as the tax capital of the New York not be
8 used to balance the budgets. Question, it's
9 not just that these arguments are orally
10 misguided. The economic arguments just
11 don't hold up in the Country. Even the
12 other country, is an economic drag in our
13 economy don't really have strong duty owned.
14 In the testimony, there is a chart. I will
15 hold it up for just a second. Notably,
16 despite the reputation in the last year,
17 these are job the losses and New York has
18 notably had some of the fewest job losses as
19 a percentage of the overall economy and work
20 force despite the financial melt down is
21 noted here. It is many on the low cost tax
22 States. Arizona, Nevada, Florida have
23 actually had far larger losses. So there is
24 this argument that when you look at this

1 history, there is very little correlation
2 between the taxes and the margins. You
3 could actually see and this is combining
4 from the tax foundation and the Bureau of
5 Economic Affairs New York even during the
6 boom times between 1999 and 2007.

7 It's overall, per capita GGP growth was
8 15 percent. Compared at only the averages
9 of 12.3 percent per capita. GDP got,
10 despite this representation that the high
11 tax rates lead to lower growth, there are
12 ways to do this number. And the last thing
13 that I would argue, is that the higher tax
14 revenue directly caused this. Most analysts
15 agree that tax growth is not the most
16 significant factor Paul O'Neal, CEO and
17 second under George W. Bush said at his
18 conversion hearing. "I never make a
19 representation based on the tax code. If
20 you are giving me money, I will take it.
21 But good business people do not do continue
22 it because of inducements. Transportation
23 costs. Rising state costs and many other
24 costs factors pay a far larger goal than

1 this particular tax rate. I point to the
2 State not to argue for tax increased as an
3 Economics in Tennessee. But rather than
4 argue that the taxes should be made on two
5 basic decisions what revenue is metered to
6 meet the desired spending amounts and what
7 is rarer in the fairest possible and also
8 who is most burdened.

9 If taxes do matter for economic growth,
10 it's because revenues allow the spending in
11 the killed work force. In the more
12 effective transportation system, in the
13 vibrant community to attract workers, this
14 is a protector of higher tax expertise but
15 of spending decisions. The main point is,
16 and this has been shown in multiple economic
17 analysis, the best way especially in the
18 present economic crisis in the low and
19 moderate income tax bracket is to provide
20 jobs.

21 Raising taxes could help redirect money
22 to those families that most need it. And
23 this is important to help those families, to
24 help those lives but it will be the economy.

1 Nobel price winner and Peter Ortiz,
2 Obama's Director on Budget wrote earlier,
3 economic regards, tax increases will not be
4 more than the spending reductions, any
5 transfer increases or payments could reduce
6 the savings. Whereas, accounting government
7 spending on goods and services will protect
8 the putting money in the hands of low income
9 working family spenders, most directly
10 stimulates the economy. Compared to other
11 corporate tax benefits, money spent on
12 healthcare and education and just as
13 spending on pre-school will help jobs with
14 pre-school and help parents more
15 effectively, join in the job market.

16 So, because of it, and this is putting
17 in the national policy, we've both been
18 tracking of what has been tracking in other
19 states and the reality is that most states
20 are looking to tax increases of various ways
21 to deal with budgets.

22 2009. 16 States have raised the
23 budget. Another 17 are looking at serious
24 approaches to do so. And it is the State's

1 2007 and 2008, also did tax revenues and
2 this is included. And Wisconsin, through
3 combined reporting and some other measures,
4 Hawaii. Increasing some tax ventures.

5 A number of states are considering
6 raising corporate income tax and a number of
7 other business taxes. Any base tax should
8 be considered carefully, they obviously do
9 have distorting effects and it's better to
10 do it broadly while creating enough revenue.

11 I would note and I think that Matt
12 Gardner is speaking here today. I know that
13 he is submitting testimony. 252 of the
14 largest corporations, 71 had paid no
15 corporate income taxes between 2001 and
16 2003. And this is part of the long-term
17 decline. And that has met a higher relative
18 burden for individual and working families.
19 Both to address the regular workers.
20 Families and corporation, passing some
21 common sense corporate tax reforms in 2009
22 and New York State. Thank you.

23 SENATOR KRUEGER: Thank you. We've
24 had such a diversity of opinions. And we've

1 had an Upstate hearing on this. And I was
2 at a tax conference last week and got some
3 other prospective last week, zero do
4 business.

5 Since you are looking at this
6 nationally, I have heard some people say
7 that we should just get rid of corporate
8 taxes and it's the broadest base and you
9 could establish a fairly, simple to track
10 progressive model and base points. I've
11 heard other people say no.

12 The best thing we could do is decrease
13 the personal income taxes. Which, again you
14 are assuming in your perfect world, you will
15 still have to provide public services which
16 tend to be more regressive or business
17 taxes.

18 We advertise this as a hearing on
19 business taxes and making taxes. Where does
20 your organization fall on the sort of
21 broader argument of which kind of taxes are
22 most fair and equitable and get you what you
23 need as a State to operate without having as
24 our previous testifier pointed out,

1 inefficiencies in the model of how
2 businesses operate?

3 MR. NEWMAN: The first thing, without
4 having talking to the ultimate good which is
5 where the businesses are. The average
6 family pays a higher percentage of their
7 income and state taxes than the wealthiest
8 people in the State of New York State. That
9 basic level, to at least move to a place
10 where we actually have people who can at
11 least afford it, paying less of the income
12 and taxes, is a first step in goal.

13 As far as some of the balances, there
14 is a point where we're talking between do we
15 have our own wealthy people, we tax our own
16 wealthy people or do we tax shareholders
17 that are out of State. There is probably
18 some argument to the balance. That in rich
19 corporations and shareholders from out of
20 state who are benefiting in our schools, in
21 our healthcare, in our transit, it makes
22 sense that those shareholder's allow
23 corporate income taxes to pay their support,
24 should just have the wealthy people who

1 choose, who live in New York, pay and have
2 those wealthy folks who benefited through
3 those investments, pay their share. And as
4 far as income tax and there are is some
5 degree of income tax. Are their intention
6 that we consume that we want to discourage
7 while making sure that we exempt the life
8 necessities.

9 If somebody has to spend something.
10 That is a very burdened tax on many poor
11 people who have no choice. To the extent
12 that a consumption tax makes sense, the
13 choice, it's one where it's a discretionary
14 sort in favor of the savings because sales
15 tax are inherently aggressive. The only
16 justification for a sales tax given it's
17 aggressivity is for encouragements. But it
18 has to be balanced by a much more
19 progressive income, to make up for it's
20 regressivity.

21 Within the philosophical view, how many
22 people come down on it? As far as the
23 practical decision making in almost every
24 state, the answer is try to lower the burden

1 of sales and property on working families
2 and raise income and corporate taxes to
3 restore the balance that we have lost over
4 the last few decades.

5 SENATOR KRUEGER: I suggested that we
6 did an increase in the PIT in the state
7 budget and I suggested that we should just
8 apply it to billionaires, so Mike Bloomberg
9 didn't plan on leaving New York City. But
10 that wouldn't sustain the argument. Do you
11 have any questions? Mr. Golisano was leaving
12 my part of the state versus your part of the
13 state. Thank you very much for your
14 testimony today.

15 MR. NEWMAN: Thank you.

16 SENATOR KRUEGER: Brian Model. The
17 Director of Stonehenge Capital Company.

18 BRIAN MODEL
19 Director of Stonehenge Capital Company

20 MR. MODEL: Chairperson Krueger and
21 the other members of the committee, my name
22 is Brian Model to support the growth in
23 small business across the New York State.

24 I am Director of Stonehenge Capital

1 Company. I am based in Stonehenge's
2 Manhattan's office. I do spend a lot of
3 time upstate. We have ten early portfolio
4 companies in New York and not early stage.
5 But about half of our activity is upstate
6 New York.

7 Stonehenge Capital is a nationally
8 expert finance company with expertise and
9 private equity and we were formed in 1999.
10 By former principles of bank one capital
11 markets and we currently manage several
12 distinct, private equity through our offices
13 in Alabama, Colorado, Florida, Louisiana,
14 Missouri, and Wisconsin.

15 Additionally, Stonehenge Missouri
16 Developments is a subsidiary that has been
17 awarded of over \$285 million dollars in
18 Federal New York Tax credits to invest with
19 emphasis on minority-owned businesses and
20 nonprofit organizations.

21 As you are aware that New York State
22 has historically invested and major
23 corporations upstate for it's economic
24 strength. When we really need to diversify,

1 our assets to anticipate in the global
2 economy. This is to financial of early
3 stage companies in New York State. This
4 continues to be an abundant in New York
5 State. But a severe capital to support
6 these efforts and several key data that New
7 York invests over \$4 billion of research and
8 development in New York and half of that is
9 upstate, and half of that is downstate we
10 are number 2 in the nation, a lot of the
11 institutions that are doing the research are
12 in the New York State urban environments.
13 New York is also dramatically under served
14 by the financial investors that typically
15 invest these high growth companies.

16 In 2007, New York State companies
17 received only \$1.1 billion dollars. One
18 billion of that \$1.1 billion dollars went to
19 down state conditions and only \$37 million
20 dollars went Upstate.

21 In New York of VC, activity, New York
22 State is not below Texas and Washington
23 State and Upstate New York is a virtual
24 venture capital he dessert. New York ranks

1 number 3 for total venture capital. New
2 York venture capital firms primarily in New
3 York and 10 percent of 10 percent capital
4 management.

5 However, 91 percent of the capital that
6 those firms deny goes out of State. Firms
7 were investigated in California start ups.
8 The current credit crisis also hurts small
9 businesses. Only 9 percent of the New York
10 based firms, actually, went to the New York
11 State companies compared to the 2 percent of
12 California firms. The California crisis
13 also, negatively impacts the Wall Street
14 Banks and this hurts small businesses as
15 well because their lines of credit are being
16 reduced and limited by these Banks which
17 forces them to cut employment because of the
18 growth because they don't have capital.

19 I mentioned earlier, that Stonehenge
20 has nine state targets investigated funds
21 including, \$114 million of which is here in
22 New York. We managed these funds as a
23 participant in the State's certified capital
24 program. It's a CAPCO program.

1 The CAPCO program has been a proven way
2 to fund early stage businesses so that the
3 New York State could continue to benefit
4 from the small businesses. The State
5 support of financing these businesses,
6 otherwise it's coming naturally in the
7 market place. CAPCO is a state-funded,
8 venture capital fund. We investigate in
9 areas that are simply under served.
10 Investments is accomplished by the creation
11 of the public/private company. With state
12 tax incentive investments, dollars are
13 directed to the specific inquiries. To
14 stimulate economic development within the
15 State and as a result is a CAPCO strength
16 economy, by stimulating the investment
17 capital to those businesses. The first sign
18 is the law of 1997 and the tax credit and
19 incentive technique to increase the owe,
20 increase the investments of insurers into
21 New York State venture capital markets.

22 Since 1997, the investor is \$400
23 hundred million dollars capital CAPCO
24 Program. It was our Fifth program. How

1 does the CAPCO program work in New York?
2 Insurance companies commit to invest in the
3 CAPCO Company in the carried incremental tax
4 program that they will solve. CAPCO paid
5 the Torans Company over time with the future
6 tax credits. And the CAPCO must meet
7 certain regulated and timeframes in order to
8 adhere to the program and their is a fair
9 amount of reporting and time requirement as
10 well.

11 In order to receive CAPCO, businesses
12 in the State must be independently owned and
13 operated. Have fewer than 100 employees, 80
14 percent of whom are New York State
15 Employees. And they must be primarily
16 engaged in certain qualified businesses. As
17 a CAPCO investor, we also deem specific that
18 from deemed important to the New York
19 economy. And I mentioned that we're now in
20 program five. And that's in order to
21 provide incentive to make sure that the
22 capital goes to the areas that are needed
23 more. As was in 2005, these were just some
24 of the requirements that the CAPCO investors

1 were under and as the businesses that were
2 located in the State zones, at least that
3 they need to go to the areas that were
4 divined of as areas outside of New York
5 County. 50 percent of the New York County,
6 are businesses that are profiting of New
7 York technology companies and RND and during
8 the first four years, CAPCO must invest 25
9 percent of their total in earlier stage
10 companies with less than \$2 million dollars
11 of generated revenue and half of that, is a
12 start up collection which meet the early
13 stage, qualification and the research in the
14 state or an incubator.

15 In December of 2007 and 2008 report is
16 due next few weeks. 70 percent of the
17 capital as been calculated to the program
18 that has already been investigated including
19 the 2008 investments and reserve to follow
20 up existing reserve companies. Over 90
21 percent of the allocated CAPCO dollars and
22 that refers only about 40 or 50 thousand
23 dollars remaining at the current respect.
24 Dollars we expect that this be issued in

1 2010. 80 percent of the total companies
2 have total assets of \$5 million dollars. At
3 the time of investments, and \$63 million
4 dollars of the companies located in the
5 Empire zones and \$63 million dollars of
6 companies located in the other areas outside
7 of New York City.

8 In programs four and five, and \$8
9 million dollars their startup companies,
10 those are newer programs. Since the
11 inception in 1999 and through 2007, the
12 CAPCO program has directed \$3 million
13 dollars into financing industries that have
14 not been in traditional investor. There has
15 been no new certified capital in 2005 and
16 with the funds investigated, we expect to be
17 fully invested within the next two years.
18 And now it's more important that we begin to
19 have capital available to these companies as
20 they grow and has declined. In more than 71
21 percent in the last ten months and it will
22 be much harder to attract venture investing
23 in 2009. Much like an increase in
24 investments, capital and those increases

1 could contract, with that, capital goes away
2 and that CAPCO has provided the promise
3 road. When you look at the upstate
4 investigator's Associates. The Counsel for
5 economic growth and all the other groups, I
6 was up in Albany at the Smart Start venture
7 forum. And there is a lot going on in the
8 New York State. In about building those
9 relationship and funding those Institutions.
10 As we look at them to make sure that the
11 capital is needed most to support companies
12 that are trying to generate a return on the
13 capital that has been reinvested on the New
14 Jersey, reauthorizing and reevaluating the
15 capital program is a very simple and
16 well-defined and historically proven way to
17 put that to work and support New York state
18 businesses. Thank you.

19 SENATOR KRUEGER: Especially, in
20 light of the discussion that you were
21 sitting and listening through, it's my
22 personal struggle, not necessarily the
23 position of the Senate. In this model,
24 we're saying that we're taking money through

1 the people of New York through tax
2 collection or taking the tax money and
3 giving it to these models through venture
4 capital, so that quote "they could produce
5 economic activity and underserved areas.

6 I guess my start up question is, how
7 could we argue that we should take taxpayers
8 money and hand it back to venture
9 capitalists, to quote unquote "to capitalize
10 the market"? Your testimony is details of
11 what the money has been used for, but what
12 are the outcomes?

13 MR. MODEL: There are two points to
14 that. The first I see is the revenue comes
15 from the insurance premium tax and it goes
16 to help support a program. Program Five, I
17 believe is the first program where the State
18 does receive a percentage of the positive
19 returns to the funds. So there is a
20 positive return to that. And the other is
21 that these companies, is a handfull of
22 investors up there and have been some groups
23 to Controller's Denapoli's policies in the
24 State's program and providing capital to

1 help those companies grow. For people in
2 Rochester to be able to get a job and stay
3 in Rochester, that capital is really just
4 not available. Some of the other things
5 that have been discussed are the creating
6 additional funds through NewStart and
7 creating additional small reasonably
8 targeted funds. And our argument is that we
9 have been there for ten years and living
10 appropriately and helping grow and fund
11 businesses. there are one hundred and 16
12 programs in the CAPCO program and in the 14
13 hundred range and 2008, we haven't seen that
14 there are a few discrepancies but these are
15 companies that otherwise wouldn't continue
16 to proceed or they would have to move
17 elsewhere and particularly going to places
18 Upstate to look for those opportunities.

19 SENATOR KRUEGER: It's not in your
20 testimony, but there are reports on how many
21 jobs have been created?

22 MR. MODEL: There is a report. The
23 Insurance Department due out this on June 1.
24 The date that I have is 2007 report and the

1 2008 report is imminent. I found it on the
2 Department of Insurance website.

3 SENATOR KRUEGER: How would we
4 know--trick question sorry. How would we
5 know whether these companies would have done
6 exactly the same things absent the same
7 investment?

8 MR. MODEL: I would argue that this
9 doesn't exist obviously because when you
10 look at the amount of investors who are
11 actively involved in the region, who are not
12 active. They weren't there and they have 17
13 groups in the Denapoli programs. Out of
14 those 17 groups, probably half of them are
15 downstate focus groups. Another half is not
16 exactly purely focused on building later
17 stage buy out and they are not on the
18 venture growth activities NYSTAR has a New
19 York state investment fund. Two guys I work
20 very closely with, they have 40 companies.
21 There is a group called Excel Partner's that
22 is looking to exceed financial advancement.
23 There is a real property that comes out of
24 incubators. Kodak and Bausch and Lomb. And

1 they can't find their first one million
2 dollars to get that company up and running.

3 Without the CAPCO company, without
4 these groups out actively seeking to invest
5 capital and support these companies those
6 companies wouldn't get funding.

7 Now if there is another way to get this
8 to otherwise fund those companies, then
9 there may be an alternative. But this is a
10 model that the State has adopted that is
11 successful for the last few years.

12 SENATOR KRUEGER: Do you think that a
13 statewide capital fund administered by the
14 New York State would allow for a broader
15 model to allow versus a CAPCO model?

16 MR. MODEL: I think that are CAPCO
17 model is general and we operate those funds
18 in nine different states. It takes a long
19 time to build the issues, building the deal
20 throw of networks and figuring out who to
21 trust and who not to trust. I think it's
22 very challenging without have infrastructure
23 to make those good investments and guide
24 those companies for success. And there will

1 be a lag time for building those
2 relationships and we've been doing this.
3 And I think that it's easiest to refinance
4 something that's already there. Rather than
5 go and create something new. One of the
6 things that I see everyday is two men,
7 Clayton and Bash. They have 40 portfolio
8 companies scattered from Buffalo to Long
9 Island. How can you sit on 40 boards? How
10 can you really manage those companies and
11 help them grow? Putting it in one agency
12 makes it a lot easier to do that than the
13 established networks that are already out
14 there.

15 SENATOR RANZENHOFER: Thank you. In
16 page three of your testimony you talk about
17 New York State being underserved by the
18 investment investors and Upstate New York as
19 a venture capital dessert and I was
20 wondering as to why that is in your opinion?

21 MR. MODEL: Traditionally, venture
22 capital dollars is something they could get
23 in it outside. Almost all the money
24 invested in this country goes to Silicon

1 Valley or Boston.

2 Honestly, with all respect, these
3 people don't know that places like Rochester
4 and Buffalo exist. They think I'm going to
5 Timbuktu. There is an understanding,
6 there's a general feeling and there is an
7 image. I call them the post-industrial
8 cities in New York City and Upstate and
9 corporate growth there, but the perception
10 is that Kodak has saved their employees from
11 60 thousand through ten thousand is what's
12 left. U.F.R. and the medical Center because
13 they are used to working with all the people
14 close to home, and are building the
15 relationships. I think that frankly in a
16 lot of ways, investors like a CAPCO investor
17 known in the light farm but because the
18 CAPCO program said that you need to put a
19 third of your money Upstate and Empire
20 zones, we spent the last ten years building
21 those relationships and now we recognize
22 that there is tremendous value there.

23 It's actually a natural competitive
24 standard. Thank you.

1 SENATOR KRUEGER: Thank you very much
2 for your testimony.

3 The next testifier will be from Nancy
4 Donahoe Lancia. Managing Director of State
5 Government Affairs, Security Industries and
6 Financial Marketing Associates.

7 NANCY DONAHOE-LANCIA
8 Managing Director of State Government Affairs
9 Security Industries & Financial Marketing Assoc.

10 MS. DONAHOE-LANCIA: Good afternoon
11 everyone and thank you for the opportunity
12 to speak on behalf of the tax reform.

13 We think this is a very timely issue as
14 we are moving forward in our economy. I
15 would say that throughout 2009, we were
16 working with Legislators and participants
17 throughout the world representing the
18 interests of our members in our efforts to
19 stabilize the markets and pave the way for
20 future economic growth and job creation.
21 We continue to use our unique position to
22 proactively provide leadership in addressing
23 enormous challenges. SIFMA has a strong
24 interest in many of the issues ranging from

1 supporting State and City Tax measures that
2 encourage growth during these challenging
3 economic times to preserving the fair and
4 constructing regulations. The importance of
5 the financial services industry, in general,
6 is long-standing and well recognized.
7 Despite becoming more dispersed and
8 increasingly globalized, the industry
9 remains heavily concentrated in Manhattan
10 and New York still is the financial capital
11 of the U.S., if not the world.

12 The industry has a profound impact on
13 and makes a significant contribution to
14 personal income tax revenues and the overall
15 economic growth of the state and local
16 economy. Even in these times of economic
17 recession and financial market dislocation,
18 The industry is still an important
19 contributor. I want to summarize a few
20 points from our recent reports that we do
21 Called "The Street, The City and the State"
22 which provides from economic data and our
23 industry and it's role in the local economy.
24 As of the end of March of 2009, The

1 Securities industry directly employed
2 188,500 individuals of New York. 89 percent
3 of those live in New York City. This
4 represents 23 percent of the industry
5 nationwide. Securities industry wages
6 account for a much higher portion of the New
7 York City total wages and adjusted income
8 for the more than 2009 total employment.

9 Even considering the dramatic fall And
10 the total compensation experienced in 2009,
11 the securities industry will likely remain a
12 large contributor to wages and therefore,
13 personal income tax revenues of the 15
14 percent of a total similar to an earlier
15 decade. The Securities industry also
16 accounts for a large share of local
17 economies.

18 From 1997 to 2007, growth in the
19 securities industry has outpaced all of the
20 activity in all other sectors. However, the
21 "tax effort" required of New York's workers
22 and businesses are the second highest tax in
23 the nation and the corporate hearing today
24 is to look at the corporate franchise tax

1 and article 91. And the opinion being
2 franchise tax which is Article 9-A and
3 article 32.

4 I wanted to ask that you consider
5 certain points that are relevant to our
6 industries and that we have the Securities
7 and Banking industry is concentrated in New
8 York City and therefore, New York should go
9 forward with the tax industry based on the
10 State and City tax regimes. It is important
11 that the changes adopted by the State level
12 also be adopted by New York City.

13 SIFMA is encouraged by recent
14 discussions at the city level to move
15 towards conformity of the two tax laws by
16 adopting many of the state rules including
17 two that we have advocated over the years,
18 which is sourcing the receipts by customer
19 location and a Single Sales Factors.

20 The combined New York State tax rates
21 are higher than any other state. Therefore,
22 the tax reform must include the reduction in
23 both the State and City corporate income tax
24 rates and regressive alternative tax bases.

1 The combined New York State tax rates over
2 17 percent create a significant burden on
3 businesses that have a majority of
4 operations located in New York City. The
5 favorable taxation of investment income by
6 New York State and New York City makes it
7 competitive with other states. If the
8 investments tax is modified or eliminated we
9 would ask that it be considered. The
10 investment Tax Credit provided by the New
11 York State has been a factor in companies
12 retaining their presence in New York.
13 Securities and Banking firms should be taxed
14 under the same facts. And currently, there
15 are two separate articles which are very
16 different.

17 Most large financial institutions
18 conduct businesses that even though the
19 operations are related, are taxed under two
20 different regimes. Banks are also subject
21 to a considerable alternative tax based on
22 gross assets with no "cap" even when
23 operations result in a significant loss.
24 Net operating losses and tax credits that

1 are currently being allowed, should be
2 allowed in computing future corporate tax
3 liabilities. Several securities firms have
4 established investment partnerships that
5 include many individual investors. Based on
6 the recent New York budget which offered a
7 personal income tax rate increase and the
8 reduction or elimination of deductions of
9 the investment interest expense, it is not
10 attractive to market these funds to New York
11 residents. The new term of Asset-backed
12 Securities Loan Facility program sponsored
13 by the U.S. Treasury to allow companies and
14 individuals to partner with the government
15 to relieve banks of toxic assets is not an
16 attractive investment for New York
17 residents. Since individuals will not be
18 allowed to deduct investments interest
19 expenses associated with such investments
20 due to the recent changes of the personal
21 income tax laws. An amendment may be
22 considered to address this issue.

23 We would make specific recommendations
24 of policies that may have worked for the

1 State and we would ask that the Investments
2 Tax Credit will be made permanent and
3 encourage businesses to expand office
4 facilities and hire personnel and employment
5 in New York State.

6 The ITC has the effect of lowering the
7 effective tax rate paid by it's businesses
8 with the significant tax laws. The ITC
9 accomplishes the goal of reducing this rate
10 for the taxpayer and the goal of creating a
11 long term commitment by businesses to locate
12 and expand in the state of New York. SIFMA
13 appreciates the renewal of and technical
14 changes made to the ITC signed into law last
15 year. The credit of the budget and ask for
16 a further technical correction be paid to
17 make sure that the ITC is also broad and
18 expanded to include all "investments
19 advisory activity". We would also ask that
20 to eliminate the liability cap or the
21 franchise tax on capital. Last year, the
22 cap that was originally one Million dollars
23 was raised ten million. SIFMA recommends
24 the lowering of the cap or providing a

1 credit. Paid by both 9A and 92 Articles
2 against future years' net taxes.

3 We would ask that the City or the State
4 retain the Investments Capital Incentive.
5 This system was put in place to create
6 incentive for companies to locate
7 headquarters and operations within the State
8 and we believe that we would like to see
9 that that incentive is retained.

10 We also have been advocating for a
11 number of years, that the city adopt State
12 rules on customer sourcing, and again, we
13 would ask that if there is a consideration,
14 and a move towards combining the 9A and
15 Article 32 or the Bank tax that the
16 sensitivities be addressed and there is a
17 partnership effort with both the Legislature
18 and the industry and resolving any issues.

19 I thank you once again for inviting us
20 to testify and to provide our comments to
21 the Committee and we look forward to working
22 with you on these issues as we go forward.

23 SENATOR KRUEGER: Thank you. One of
24 the statements that I made in the beginning

1 was to say that I believe that New York
2 State taxes are to be equitable and create
3 an even playing field for everyone involved
4 and a particular category incentive. And
5 there is nothing more complicated when
6 looking at the securities and the financial
7 field. The Bank Association was here
8 earlier testifying and from there
9 perspective, it's my lack of knowledge I
10 need to learn.

11 We have so many different categories
12 businesses who once upon a time were banks
13 and couldn't do X and or firms who couldn't
14 do Y. And I have companies who are asset
15 managers created directly, who are mutual
16 funds managers from a tax perspective.

17 We have banks who yesterday were X
18 company and yesterday they multiplied, they
19 changed three companies and I try to keep
20 track of how many Banks have left. How many
21 have been merged? How many have been asked
22 by the Federal Government to do this instead
23 of that. So, as we go forward, I think that
24 when working on the question of whether to

1 merge these two categories or to follow up
2 on the taking any position on the
3 recommendations you've made here today. I
4 think that it's all about definitions,
5 understanding who's doing what and how is it
6 different or the same as others in the
7 industry and for helping to figure out how
8 we want to treat them from a tax perspective
9 to be both equitable and fair and one group,
10 I do pretty much exactly the same then as
11 they do, but I get different treatment under
12 policy.

13 And also, to take into consideration
14 under the point that you were taking, New
15 York City hometown business at least means
16 home business has, in fact, been financed.
17 And there is a number of businesses even
18 ignoring the economic realities of this down
19 turn and that we need to try to go forward
20 to keep businesses here in New York but also
21 to have equitable tax treatment. Do you
22 think that your association could actually
23 be helpful in coming up with a standardized
24 set of difference? Do you agree with me?

1 MS. DONAHOE-LANCIA: I think that
2 it's a changing environment. Even the world
3 has changed even from September. I think
4 that we would like to be engaged and be
5 helpful and because the two systems don't
6 contemplate a J-O-B and the change is nine
7 years old. We would appreciate to work with
8 you on that.

9 SENATOR KRUEGER: And I asked several
10 other people here today what their opinion
11 was from their proposal of coming out of the
12 business community and endorsed by the City
13 for a tax conformity of City taxes to be
14 brought to the State for a passage. Do you
15 have a position on that proposal?

16 MS. DONAHOE-LANCIA: We have two
17 under review and we're looking at the
18 encouraged by some of the components of it.
19 And that is a very applaudable goal. And
20 one of the things that I hear as the
21 organizations is rather large is businesses
22 that operate out of New York or pay not New
23 York taxes and wages you have two different
24 codes. Our taxes are hard to administer. I

1 think that providing an easier
2 administrative system would be an attribute
3 to business for the City and State.

4 SENATOR KRUEGER: Thank you.
5 Michael?

6 SENATOR RANZENHOFER: First of all,
7 thanks for testifying here today. You had
8 mentioned a number of different suggestions
9 in your testimony. I would ask if you think
10 that there is one that is particularly
11 important that would be addressed over the
12 others?

13 MS. DONAHOE-LANCIA: I think that one
14 of the ones that our members find very
15 important, is the investments tax credit.
16 And that does for our industry require a
17 certain level of employment here in New York
18 and it encourages the building and the
19 leasing of property and the technology for
20 our industry to keep pace with the sort of
21 pace of trading and the time differences.
22 There is a constant need for a new and
23 updated technology. I think that's a very
24 important credit that is helpful for both

1 the City and the State.

2 SENATOR RANZENHOFER: Thank you.

3 SENATOR KRUEGER: All right.

4 Anything else? All right. Thank you very
5 much.

6 All right. Our next testifier is Peter
7 Faber Chairman of the New York City
8 Partnership Tax Committee. Good afternoon.

9 PETER FABER

10 Chairman

11 The Partnership for NYC Tax Committee

12 MR. FABER: My name is Peter Faber.

13 I'm here for the partnership in New York
14 City which is here for the economy of the
15 New York State. And I would like to argue a
16 view from corporate tax trenches the New
17 York City business climate is not as good as
18 it should be. There is a perception of
19 excessive government regulations. The
20 expenses are high and rent, cost of
21 regulations and materials, and we have high
22 taxes. The combined New York City corporate
23 tax rate is by far is the most in the
24 country. It's over 17 percent. I don't

1 know any state that comes close and to
2 compensate for this, we have to make the
3 system fairer, simple and attractive and we
4 have to use tax incentives to mitigate the
5 tax rates.

6 It's very nice to say as other
7 witnesses have done, that ideally, we have
8 to have uniform rates. Everybody is treated
9 exactly the same. But the trouble is we're
10 stuck with the 17 percent rate and if we're
11 going to have high normal tax rates, then we
12 have to have some elements of the system
13 that mitigates that effect.

14 I will tell you that taxes do effect
15 corporate behavior. I know that other
16 witnesses have said academic studies and
17 I've sat in corporate board rooms. And I've
18 advised corporate executives on decisions to
19 where to expand their businesses. They are
20 not the only factors. Of course, it's a
21 significant element of cost and corporate
22 Executives paid attention to that.

23 And I'm aware of one company that moved
24 out of New York State, took four hundred

1 jobs solely because of the individual taxes
2 on the owners. So this happens from time to
3 time. The tax law is much too complicated.
4 We've got to simplify it. There is a single
5 sentence in the tax law that's almost three
6 times as long as the Gettysburg Address.
7 You've got to get rid of that.

8 I have several suggestions. Section
9 210.3. The partnership has several
10 suggestions for imposing the tax system.
11 The portion of the income for New York City
12 purposes should be based on New York City is
13 located. This eliminates the adverse tax
14 effects on having properties and employees
15 in New York City and again, you could argue
16 that theoretically this could be the right
17 answer and many of the States of the
18 businesses has the Single Sales tax, New
19 York State has it and New York City should
20 do it as well.

21 We should preserve the favorable
22 treatment of corporate investments. Income
23 we should continue the exact income from
24 subsidiaries. Let me explain how this

1 works. It employs the accountant like me,
2 who doesn't make money, but then it owns the
3 stock of the subsidiary corporations and
4 provide the services and make the money for
5 the Corporations. While the subsidiaries
6 are taxed on the income. If they paid a
7 dividend to the holding company, there's a
8 second tax and the holding company pays a
9 dividend on the shareholders, the
10 individuals and the people in this room,
11 there is a third tax on basically the same
12 corporate income.

13 New York State and New York City for
14 over 60 years, have extended the direct
15 fusion of the dividend, the operating and
16 the manufacturer of the holding company for
17 the tax. This has been a central part of
18 our policy for over 60 years. And it's
19 encouraged headquarters related here.
20 Whatever else we do to the tax system, we
21 should keep this provision in both New York
22 State and New York City.

23 Nancy Lancia has suggested combining
24 the Article 9A with the business properties

1 and the partnership supports that objective.
2 We're working with an objective and draw
3 that in.

4 You've got to simplify the MTA payroll
5 tax. This is something that was just
6 adopted a few days ago. And I was on an
7 hour long conference with the Tax Department
8 is tearing it's hair out figuring out how to
9 administer this. And you need to talk to
10 the Tax Department. That would make it more
11 administrable. We forego the arguments the
12 film production credit as I understand has
13 resulted in significant amounts of economic
14 activities that has not taken place
15 otherwise. That should be retained and
16 expanded. And the financial services firms
17 should be expanded and made permanent.

18 We have a separate program that will
19 discuss details with you. To provide
20 premises and the taxes based on the value of
21 the company's property, even if it's losing
22 money. Ought to be curtailed or limited.
23 In sum--there's lots of work to be done and
24 we recognize that the business has to pay

1 it's fair share of the tax burden but only
2 the fair share and it's important that our
3 tax climate encourage job growth and help
4 the economy and help all of us. We look
5 forward to working with members of the
6 Committee and other members of the
7 Legislature. Thank you.

8 SENATOR KRUEGER: Thank you. You
9 were so quick and the other people could
10 read along faster.

11 SENATOR RANZENHOFER: The question I
12 asked the last Presenter, if there is one
13 particular measure that you taught is more
14 important than the others what would that be
15 because you mentioned several?

16 MR. FABER: It's hard. There are a
17 number in my view that are absolutely
18 critical. I think that the portion of the
19 factor of Single Sales Factor portion is
20 particularly important for the businesses
21 that the partnership represents. I think
22 that preserves that portion of the income
23 from subsidiaries is particularly important,
24 the investment tax credits is important,

1 are in the way that is intended to work.

2 SENATOR KRUEGER: I know that you
3 were sitting here all day, so you've heard a
4 lot of different positions on tax policy.
5 Is it your position that, in fact,
6 prioritizing job creation and even
7 evaluating what those jobs are is a worth
8 while excise in the context of tax policy?

9 MR. FABER: I think so. I think that
10 another way in saying that is it appropriate
11 to use that tax policy to achieve the job
12 creation. And I think that tax there risks
13 and many of my job professors are to say no.
14 You have a tax net income. There shouldn't
15 be know incentives. I think that's
16 unrealistic, think that the tax system
17 offers us a way of bringing about economic
18 change without government agency dispense
19 money to the people who are requesting it.
20 And I think that it's appropriate to use the
21 system to encourage the economic behavior.

22 SENATOR KRUEGER: The example I gave
23 earlier of using tax policy to stop
24 polluting for example.

1 MR. FABER: Yes, I think that's a
2 useful things to do. I think that would
3 probably be a mistake to expect tax policy
4 to do the whole job. I think that the
5 pollution has to be done within the context
6 of the overall government and private sector
7 approach. I think that certainly tax
8 incentives to encourage green behavior is an
9 appropriate weapon to be used in that note.

10 SENATOR KRUEGER: And I just
11 particularly in the financial services
12 industry, we seem to be changing the
13 category of what a company does, how they
14 categorize themselves as a bank or a
15 non-bank and the difference is the
16 assignments. Do you know that we need to do
17 a fair evaluation of the tax policy?

18 MR. FABER: Senator, I make my living
19 while dealing the tax directly.

20 SENATOR KRUEGER: That's why you are
21 in Courtrooms all the time.

22 MR. FABER: I agree exactly. I agree
23 with that. Too many recommendations of
24 different similar kinds of companies and I

1 would love to see the tax law simplified
2 dramatically and simply by the tax regimes
3 for general business corporations and there
4 will be another way of doing it. And more
5 conformity between New York City and New
6 York State is another way to do it. And
7 getting the City and State tax departments
8 the same would be still another way to do
9 that.

10 I think that there are many areas where
11 we could simplify and eliminate a lot of
12 these that go on for ever.

13 SENATOR KRUEGER: Question. The
14 Federal government appears to be taking a
15 stand of what makes some changes of Federal
16 law. There is some argument that the State
17 and City should hurry up and get some of
18 these changes done, and then I've also heard
19 that maybe we don't want to until we see
20 where the Federal government is going
21 because we don't want to have to do this
22 twice. Do you have a sense of opinion on
23 that?

24 MR. FABER: Yes, I think that if the

1 Federal Government and it looks like they
2 are going to do that in that area. I think
3 that it makes sense. The case in point is
4 the income received by the General Motors in
5 hedge fund. There is appropriate material
6 affecting that. And at the same time, the
7 Federal government is looking at exactly the
8 same issue and where it seems likely that
9 Federal action is imminent, I think it makes
10 sense to wait because conformity is useful
11 to the Federal system as well as conforming
12 between the State. If the Federal
13 Government is showing no interest in the
14 area and the State Legislature includes that
15 it's important for the people of New York to
16 deal with this subject, then I'd say go
17 ahead and do it.

18 If the Federal Government isn't about
19 to do it imminently and we know that the
20 Federal laws will take a long time. I will
21 tell you one legislature. That the New York
22 State law is longer than the Gettysburg
23 Address. I was a history major in college.
24 There was an Internal Revenue Code that was

1 longer than the Gettysburg. Senator Long
2 was there and Senator Kennedy was there. It
3 took them 30 years to get rid of that
4 sentence. To wait for the Federal
5 Government to do something, may not be the
6 best strategy.

7 SENATOR KRUEGER: Thank you so much
8 for your testimony.

9 Our next testifier is Angela Miele.
10 Vice President of Tax Policy for the Motion
11 Picture Associates of America.

12 ANGELA MIELE
13 Vice President of Tax Policy
14 Motion Picture Association of America

15 MS. MIELE: Thank you very much. I
16 didn't realize that there are people who
17 didn't want to give us a tax credit, so I'm
18 actually glad I'm here today. Thank you
19 Chairwoman Krueger and members of the
20 Committee. My name is Angela Miele here
21 from the Motion Picture Association and
22 Directors of Film and Television from around
23 the world. For that matter CBS, Disney,
24 Sony, Warner Brothers, Fox and Universal is

1 actually a member for tax purposes.

2 And I think while a lot of people see
3 the grandeur of the film industry and the
4 dollars raised at the box office and the
5 money made by companies, they don't realize
6 what's behind all of that. And those are
7 thousands and thousands of employees
8 throughout the business, throughout the
9 country, 115,000 businesses that pay roughly
10 \$40 billion dollars to venders, small
11 businesses and entrepreneurs who are vital
12 to the economic developments of the country
13 and I think that while this State is looking
14 for opportunities to create a stimulus
15 package and prudent investments. I think
16 that's worth while to looking at the tax
17 records to show a positive impact, return on
18 investments to the State and I think that
19 one production, alone could generate
20 millions and millions of dollars for the
21 economy and create jobs for everybody in New
22 York.

23 And I think that what some of the
24 economists don't look at it and what I see

1 in States across the country is really the
2 ripple effect of what this industry has.
3 Hotels, motels, caterers, restaurants,
4 office supplies, dry cleaning, floral. And
5 a lot of that, when States calculate of
6 what's beings expended for the film
7 industry, they don't realize what actually
8 comes back as a result of the film, industry
9 and so I think what we want to do is applaud
10 the Senators' leadership to continue the
11 program and working with the Governor. The
12 \$350 million Dollars which was the critical
13 to the industry to keep it going.

14 One of the things that we're going to
15 seek is an extension of that work with you
16 to continue that, and one of the reasons we
17 want to do that is to keep this vibrant
18 industry alive in this City and the State.

19 In my role of the MPA, is look a the 50
20 States and 40 of those states actually have
21 incentives. A lot of the states are
22 incensing this industry and why is really
23 because it's a very large stimulus for their
24 local economies and I think that a lot of

1 people again, don't look at our companies
2 and say "well they don't really need the
3 money." Our companies operate similar to
4 any other business. They have shareholders
5 that they interest beholding to. They want
6 to make a profit. They can't lose business.
7 Everything that you see at the box office
8 isn't just going into their pockets. And I
9 think that we really need to foster that for
10 both the State and the industry. Again,
11 because it foster's a whole broad range of
12 Economics developments throughout the State.
13 And I think that one of the things that
14 we've seen in this industry from last year
15 to this year, when we had a very large
16 industry, there were about 15 to 20 pilots
17 that actually came to New York. New York
18 never had any pilots. The pilot is to
19 whether or not a show will be a long-term
20 recurring series. What happened with the
21 program reform is 15 to 20 pilots came to
22 New York.

23 Now what's happened? The money has
24 dried up. The credit are no longer there.

1 They can't be guaranteed the credit. You
2 are not getting the continued series. I'm
3 sure that you read "Fringe" is a show that
4 was filmed hat was filmed in Queens is
5 actually going to Canada. And although,
6 there are other incentives, and I think that
7 the State's should incent this industry,
8 that's fine, they'll go to Canada. They'll
9 go to New Zealand where those incentives are
10 provided. I think that's something that the
11 people loss sight of it.

12 As Peter Faber eludes to it. The cost
13 of doing business is very expensive in New
14 York. I think that I disagree with one of
15 the earlier speakers. You could actually
16 see this industry creating jobs. There are
17 studies. Ernst and Young that a return on
18 investment is \$1.90 for a one dollar
19 invested for that credit. I think that I
20 will be happy to share that with you. We'd
21 really like to see that credit extended. I
22 think that basically, we talked a little
23 about the Ernst and Young study. It is not
24 the study that you need to look at it. I

1 think that you need to look at how the other
2 states are doing.

3 Michigan instituted a 42 percent tax
4 credit in the middle of a recession with the
5 biggest unemployment in the whole country.
6 They did that to stimulate jobs. They now
7 have car factories that are actually being
8 turned into movie studios. Because they
9 realize that that's a sound investment. I
10 think that's also something that we need to
11 consider doing when looking at the tax
12 credit. And I appreciate the opportunity.
13 I also have an answer for your previous
14 question on Single Sales Factor in 22
15 states.

16 SENATOR KRUEGER: Obviously, this was
17 a very hot topic in Albany and we did renew
18 the tax credit. And show continuity of
19 whether a company is planning they will
20 bring pilots or a series to New York. They
21 are particularly concerned about what the
22 status of the tax situation will be for more
23 than one year as opposed a movie who comes,
24 shoots and is done. And again you also,

1 heard the Legislature and I think that there
2 is legitimacy to this. Once everybody is
3 offering the same kind of credits all over,
4 you are competing against yourself so to
5 speak down to zero.

6 It's a struggle for me. When thinking
7 about tax policies why you don't want to
8 make tax policy too short term to be
9 relevant for businesses in making decisions,
10 but you also don't want them forever because
11 the economic realities change and the
12 business realities change.

13 What's been your experience as to the
14 Motion picture industry?

15 MS. MIELE: I have to say that the
16 Motion Picture Association has a Tax Policy
17 Division. Well, I'm it for the 50 states.

18 SENATOR KRUEGER: What's your
19 industries' experience been about how you
20 balance this?

21 MS. MIELE: I guess what's happened
22 recently is it used to be the creative needs
23 and where the talent who has the biggest say
24 will go to film. They'll only go to Montana

1 because they have a summer home there. And
2 right, now what's happening with this
3 economy, it's becoming much more of a
4 financial decision and the Director is
5 saying "I'm sorry" when the companies put
6 together a budget for a film. They'll say,
7 give me eight budgets for eight states.
8 They don't say that we'll go here or there.
9 What are the top state budgets that will
10 allow us to put together the budget so we
11 could shoot this for the cheapest amount of
12 money. It may not be the cheapest state.

13 Also there are factors that go into
14 that. The main factor whether or not they
15 have the crew. You may want to go to
16 Michigan. And you may realize that you
17 don't have the crew there. And it's so
18 popular, they may not have the crew. You
19 will have to balance out and know how much
20 is going on there. But the incentives are
21 much more important and given the components
22 of the physical environments we're in. And
23 they will go overseas.

24 Louisiana started this in 2002 and

1 whoever would have thought that Louisiana
2 back then, is the film capital of the South.
3 And they are just booming down there with
4 infrastructures of the jobs and the whole
5 film industry, which no one ever predicted.
6 And they will go overseas and that's with
7 the State's fought back. They were going to
8 Australia. They were going to England and
9 Germany because they were providing the
10 incentives. It's very, very expensive, by
11 the way. I just saw a short recently of
12 Angels and Demons that just came out. The
13 set alone. They were not allowed to film in
14 the Vatican and they had to build the
15 Vatican in a parking lot in California. It
16 was \$12 million dollars to build that set.
17 That was hundreds of jobs who developed that
18 set. I think that the people don't see.
19 And they were able to build that and that
20 employment was just mind boggling.

21 SENATOR RANZENHOFER: How much
22 business have you lost to Canada over the
23 last several years?

24 MS. MIELE: I don't know that anybody

1 has ever quantified that. Our company
2 wouldn't consider "loss to Canada". Our
3 company looks at it as an economic decision.
4 So I don't know if anybody has checked.

5 SENATOR RANZENHOFER: As you could
6 get some quantification, I would be
7 interested in that.

8 MS. MIELE: Sure they may keep those
9 statistics. They were very active trying to
10 get a Federal stimulus package for the
11 industry for the last several years.

12 SENATOR RANZENHOFER: Thank you.

13 SENATOR KRUEGER: Thank you very much
14 for your testimony.

15 And the last testifier is Thomas Riley.
16 Chairman New York State Society of Certified
17 Public Accountants. Legislative Task Force.
18 He is not here. Is there anyone else in the
19 room who came to testify?

20 COMMITTEE MEMBER: No.

21 SENATOR KRUEGER: Well I want to
22 thank everybody. I want to thank my
23 colleague who came from upstate. I speak
24 for myself. There is an enormous diversity

1 of testimony which will be given today and
2 the Committee will be developing a report of
3 this hearing and the hearing held in
4 Rochester. You could watch the Select
5 Committees' website. The video from today.
6 And we will have a report and all of the
7 testimony that's been submitted both by
8 people who came to testify today and anyone
9 else who chooses to submit. And I have to
10 say that the Senate is very excited about
11 the opportunities going forward for dealing
12 with some of the complex tax issues.

13 Just for clarification, we're going to
14 go on hold. Mr. Riley was scheduled for 4.
15 We'll take a brief intermission. Thank you
16 very much.

17 Is Thomas Riley at four o'clock.

18 * * *

19 SENATOR KRUEGER: Welcome back to the
20 Select Committee on Budget and Tax reforms.
21 Public hearing on evaluating the
22 equitability and Banking tax structure and
23 their effectiveness to foster on economic
24 growth and we're joined by Thomas E. Riley,

1 the New York State Society of Certified
2 Public Accountants, Legislative Task Force.
3 Thank you for joining us this afternoon.

4 THOMAS RILEY

5 Chairman

6 NYS Society of Certified Public Accountants
7 Legislative Task Force

8 MR. RILEY: I appreciate the
9 opportunity. My testimony's written in
10 bullet form and I will go through that
11 quickly. And it will be just more
12 discussion of what I've seen on TV is a
13 formal testimony.

14 I was President of the New York State
15 Society of the CPA's, 2 to 3 years. I
16 travelled throughout New York State. I've
17 lived in Syracuse my whole life, and went to
18 college in Syracuse my whole life and I'm an
19 accountant of Syracuse.

20 I think that I understand Upstate New
21 York. My knowledge of down state is a
22 somewhat limited of New York City taxation
23 and I really can't speak to that. It's the
24 end of this. But it's the most important

1 thing to me.

2 The New York State Society of CPA's
3 will like to offer any services that we
4 could provide to you to understand. We
5 could hand pick very sophisticated
6 practitioners that could assist you, so the
7 policies that come out, all of the
8 unintended consequences maybe discovered
9 Before it and that's what it means whoever
10 makes the phone calls, feel free to dial
11 Dennis and we'll get back to you, and we
12 really do want to help and my goal is to do
13 as much reach out as possible.

14 I'll go through it in the order that
15 you asked the questions and the mailing that
16 I received, and it asked if the credits
17 established their goals. They do accomplish
18 their goals, but not as much as they should,
19 and there is a lot of unintended
20 consequences and personal comments versus
21 society be of professional comments. Empire
22 has been designed for manufacturers and
23 processes and people with a efficiency type
24 industry Labor-intensive, capital-intensive

1 not for professional services firms that
2 hire one person and get all of the credits.
3 That is pretty common. I don't know what a
4 lot of CPA firms and a lot of Law firms that
5 have taken benefit.

6 Maybe I am not savvy enough to know if
7 they were intended beneficiary, certainly
8 I'll take the benefits if I'm entitled to
9 it. I'm not sure that it was intended that
10 way.

11 You heard from bank people earlier. I
12 don't work in financial Institutions but I
13 ask my Banking partners and I asked a couple
14 of bank Presidents that are CPA's what are
15 the bigger use to you. Either one. They
16 allow less than Eight Billion Dollar Banks
17 to compete the Central Credit Unions. They
18 are a thorn in the side to the New York
19 State Banks because they operate in a
20 not-for-profit basis. That is at least one
21 way to allow for the commercial banks to be
22 more profitable and they have seen that
23 trying to remove that particular tax break
24 and removing that will be affordable for

1 people doing business.

2 The corporate rate for the people in
3 New York can be some 20 percent. That's a
4 pretty stiff rate.

5 Another thing that we noticed was if
6 you remember the bank return to take the
7 credit. It appears to be an investigation
8 for an audit where every person could look
9 at the paperwork to make sure that it's
10 right. An actual field audit that's almost
11 punitive and get the records to defend
12 yourself. And I don't know if that's exact
13 policy but from our limited tax basis of
14 doing it, it's 100 percent. You shouldn't
15 have to choose between entities based on tax
16 treatment if a partnership makes sense for
17 me to do business. Businesswise, I
18 shouldn't have to become a corporation or an
19 LLC or some other type of entity for tax
20 reasons. All tax benefits, if in my mind,
21 should be the same if I have a mortgage
22 recording tax is a deduction or a C Corp, it
23 should be in an S Corp too. And a
24 partnership and a sole proprietorship for

1 that matter, inconsistencies like that give
2 other businesses an unfair competitive
3 disadvantage if they are formed differently.

4 Corporate rates are now much lower than
5 individual rates which comes back to more
6 choice of entity 8.97 for a personal for a
7 couple of years versus a 7.1 percent
8 corporate rate. Does it make sense if you
9 want to get around that? I will
10 incorporate that for a lot of reasons. I
11 don't want incorporate to go to 8.97
12 percent. I could tell you that much. The
13 total tax burden is a number of people who
14 stops people from doing this in New York.
15 Combined income taxes, unemployment.
16 Workers' comp, disability, utility tax and
17 sales tax and it's massive, massive number.
18 And the client sent me an e-mail this
19 morning not knowing that I was coming here,
20 he carried in the mail to catch up the on
21 the estimated taxes because he retractively
22 caught up to the tax rate. If you ever
23 wondered why some business is leaving the
24 State like Tom Golisano is leaving in droves

1 it's because of the latest rates I received
2 yesterday. I'm sure that you are aware of
3 it. I'm going to take a further soaking for
4 spending.

5 There appears to be no sunset. He is
6 just fed up with all of the taxes and the
7 various ways to comply and I talked to him
8 later. That's very nice compared to what he
9 said later.

10 A perfect example of that is a change
11 of Empire zones. A calendar year
12 corporation files a Corporation tax on March
13 15th an individual file April 15th. There
14 is a TSB sent out with few rules on April
15 15th. So we already filed many returns
16 containing Empire credits, now we have to
17 amount it. Something like that, is just
18 more icing on the cake, aggravated people.
19 It's supposed to be a program to spur the
20 economy. I filed my return. I want my
21 Empire zone back. How is that helping me
22 now? And how long do I have to wait?
23 That's not good. All the programs need to
24 be simplified to apply for it and complied

1 with it. For a small business could really
2 be very burdensome. A lot of them pass on
3 it. I'll charge them a lot more than where
4 the credit will be. They need to be
5 simpler. I know that we need compliance,
6 but I know we need simplicity, so that the
7 small business man could take advantage of
8 the credits and do it timely. I told you
9 that we have returns that are amended.

10 Another example that I have is two
11 identical returns. Two brothers. We have
12 similar businesses other than a name are
13 identical. They both filed April 15th,
14 2008. One brother received a refund. A
15 sizeable Empire zone refund 8 weeks after
16 that. And the other received his refund
17 April 14th of 2009 a whole year later. And
18 it's lost, if you will, in a hole. If you
19 call about it, it's like waiting. Those
20 type of thing that needs to be fixed. We
21 need a faster response. I recall, I got
22 sympathy from who I spoke to on the phone.
23 She apologized and said it will come through
24 when it comes through.

1 I know a large manufacturer that's got
2 five years of Empire zone credits. A
3 manufacturer with several types of
4 employees. Those type of things are stream
5 lines and the total burden, there are just
6 so many reports that the people failed to
7 file. Constant changes. That will help.
8 Rates certainly don't help. We need to cut
9 back. That's pretty much all I have to say.
10 I appreciate the time. If you have
11 questions.

12 SENATOR KRUEGER: I do have
13 questions. So thank you. Very much.
14 Unfortunately, you couldn't join us earlier,
15 you might not have heard some of the
16 testimony that I will reference. Some
17 people have made the argument that we should
18 stop having so many different categories of
19 incentives and expenditures and would argue
20 that if you got rid of a bunch of them you
21 would have a lower rate across the board.
22 And you will actually get the simplification
23 that you are also testifying about, do you
24 actually agree with the argument that we

1 should be removing any number of the numbers
2 of the taxes expenditures from the tax
3 codes?

4 MR. RILEY: No. I think that a lot
5 of them is very good. There are unintended
6 consequences of \$100 million dollars on
7 Empire Zone Credits, I would like to see if
8 the people who could really spur on the
9 economy get those credits. Rather than me.
10 I'm a CPA. I'd look to pay as little tax as
11 possible. But a manufacturer will generate
12 more jobs. There is a rule of thumb that
13 there are three other jobs with it. All
14 Upstate New York is on a slow grind. I had
15 a client tell me it's not like the good old
16 days. He told me the late 40's right after
17 World War II and GE had 30,000 jobs in a
18 factory in Syracuse. And it has been
19 stagnant. It has been that way for my
20 entire career. It hasn't changed.

21 SENATOR KRUEGER: And you
22 referenced-- I agree with you, I was having
23 the dilemma of understanding you have
24 different tax interpretations whether you

1 are an S Corporation or a C corporation or a
2 partnership. There must have been a good
3 reason at some point in time we created all
4 the differences in the tax code?

5 MR. RILEY: Those are a for Federal
6 purposes and we should file those but even
7 within New York, we have differences because
8 of some of the mortgage recurring taxes and
9 stuff like that. There aren't very many S
10 Corp Financial Institutions in New York
11 State. I think that there's four. I could
12 understand that there are only four. Maybe
13 there wasn't even one at the time because
14 there are rules regarding financial
15 Institutions. So maybe there wasn't one and
16 now there are. And when you convert to an S
17 Corp, take that into account. Probably, but
18 if I wanted to go to a new bank and not have
19 an S Corp because of that particular
20 benefit, yes, there's a multitude of reasons
21 why you choose entities. It took us a long
22 time to get LLC's in New York. We're very
23 progressive, but we take our time.

24 SENATOR KRUEGER: One of the

1 statements that I made earlier was how
2 important I thought it was to have an even
3 playing field and not to be giving
4 advantages for some people who were in an
5 industry versus another because I note that
6 when hear from people, that are frustrated
7 from taxes. They also get particularly
8 frustrated when they believe that somebody
9 in the same situation, ask them somehow got
10 a lower tax bill then they did, and, in
11 fact, that some of the complications that
12 you are referencing that again Empire Zone
13 can be eligible to not pay taxes when in the
14 same type of business in a market competitor
15 could be located within the next town or
16 block.

17 MR. RILEY: It could be the next
18 block over.

19 SENATOR KRUEGER: That's right.
20 We're basically sunseting the Empire
21 program in a year. And the Senators have a
22 task force to create recommendations for the
23 alternatives to the Empire Zone. I've been
24 a big critic of the Empire Zone for the

1 point that you made. Where we had shirt
2 changers who took advantage of the law we
3 wrote. If the law let's you take a tax
4 deduction why wouldn't you. But were never
5 the intended recipients of the tax
6 advantage.

7 We're going to have to deal with coming
8 up with a new model as your association
9 looked at any models that you think might be
10 better?

11 MR. RILEY: Not yet. It's a
12 challenge that we would love to take on.

13 SENATOR KRUEGER: I appreciate your
14 offer to help us because, in fact, the
15 Committee is very open to getting advice
16 from people who do understand tax policy.

17 I am trying to get tax policy "sexy",
18 to get lots of interest in it. Not always
19 easy a case to make. It's not considered
20 the sexiest business but it's crucial to
21 figure out what's in the best interest of
22 the State of New York in balancing our needs
23 for revenue with recognizing that we don't
24 want to discourage economic activity.

1 We would want to encourage and maximize
2 economic activity, that is really the scene.

3 Of the activity, we could do better
4 than Empire Zones. I know we can. I'm
5 looking forward within the next year,
6 exploring with as many people as possible
7 what the State Legislature should do, what
8 the 21st Century could do, have a balanced
9 playing field. But encourage economic
10 activity and job creation. And on that
11 note, do Accountants factor in looking at
12 models of economic activity, where tax
13 policy can trigger more jobs versus less
14 jobs being created and what would you
15 recommend to us in those questions?

16 MR. RILEY: We can do that. And the
17 thing that we had in the past, we haven't
18 had the resource to have available for the
19 economic data and that's not something that
20 I could crank out in two minutes on my own.
21 It's something that we had talked about
22 really at the Federal level saying that we
23 would need a study. But for the Federal
24 will be a multi-million dollar study to

1 determine that, but we currently can do
2 that.

3 SENATOR KRUEGER: And you talked
4 about the frustrations of your client with
5 the complications of the tax system. And
6 you mentioned a need for simplifications.
7 Which I agree with you. Are there states
8 that should be doing this better than we
9 should be looking to as our model?

10 MR. RILEY: I can't answer that
11 question. Florida doesn't have any tax. At
12 least a personal income tax at least the
13 people look towards but that doesn't mean
14 they have a better system. I'm from Upstate
15 New York. It's got a good work force and
16 there is nothing wrong with Upstate New
17 York. They didn't move to North Carolina
18 because of the weather. They person who did
19 that have probably never been to Syracuse.

20 SENATOR KRUEGER: You mentioned that
21 there are too many steps for small business
22 to take advantage of Empire Zone credits.
23 Was that set up intentionally that way do
24 you think?

1 MR. RILEY: No.

2 SENATOR KRUEGER: Or was that just
3 the way it translated out ultimately?

4 MR. RILEY: It's just the way it
5 translated out. If you really think about
6 Empire zones. They are really simple, but
7 once you start doing the paperwork and the
8 forms and the amount of data and the
9 accounts that you have to do. It became
10 more complicated. I think that a lot of
11 times complication becomes because we're
12 worried somebody will get away with
13 something so we're towing the line and doing
14 100 percent of what we're intended not 99.9
15 percent. And by doing that, we make it over
16 complicated.

17 SENATOR KRUEGER: So you would
18 recommend as we go forward with trying to
19 think of what models you use instead of
20 Empire Zones and streamline the application
21 for becoming eligible for whatever benefits
22 they are.

23 MR. RILEY: Yes. Maybe more
24 businesses should be eligible that aren't.

1 Don't I want to also incent my businesses
2 that are already here. And do I want
3 somebody to come next door to me that does
4 the same thing. I do, move to any state and
5 do what he does. There is no incentive to
6 stay here. That type of commentary. I am
7 starting to hear more of that. I don't know
8 if that's the aging of my clients or if it's
9 the burden gets higher and higher. That's
10 the tax record. They seem get higher and
11 higher. And everybody has a breaking point
12 at some point.

13 SENATOR KRUEGER: We had a hearing up
14 in Rochester and we heard from quite a few
15 people who were testifying up there. And
16 again, it was Upstate represented their
17 frustration. If they were a business in New
18 York State who had been here doing A, B and
19 C. The tax incentives for them to expand
20 were not nearly the same as if they were a
21 company who announce I will come to New
22 York, and do A, B and C. And our desire to
23 draw in new businesses were perhaps, was
24 unfairly treating our existing businesses

1 who said we could do this with your help.
2 We could increase a number of jobs by one
3 hundred versus somebody saying that they
4 could come to New York with 300. And our
5 tax policies were inequitable. Do you find
6 that to be the case?

7 MR. RILEY: I would say that that is
8 the case. We are trying to attract new
9 business and ignoring what business we have.
10 Not exactly ignoring--

11 SENATOR KRUEGER: And do you see that
12 there's differences in tax treatments of
13 large companies versus small businesses?

14 MR. RILEY: Yes. There are things
15 that phase out. Capital based. Some good.
16 Some bad. A lot of large businesses could
17 do a lot of things than a small business.
18 Some will strip the money out of New York.
19 And a lot of small businesses will be too
20 costly to do that.

21 SENATOR KRUEGER: Thank you very much
22 for your testimony today and coming down and
23 attending the hearing. This officially ends
24 the hearing on the Selection of the Tax and

1 Budget Reform. And I thank everybody to
2 come down and stay the afternoon with us.
3 Thank you.

4 * * *

5 (Whereupon the Public Hearing was
6 concluded)

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